

Union Calendar No. 137

107TH CONGRESS
1ST SESSION

H. R. 1992

[Report No. 107-225]

To amend the Higher Education Act of 1965 to expand the opportunities for higher education via telecommunications.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2001

Mr. ISAKSON (for himself, Mr. BOEHNER, Mr. McKEON, Mr. CASTLE, and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on Education and the Workforce

OCTOBER 2, 2001

Additional sponsors: Mr. PASCRELL, Mr. GRAHAM, Mr. TANCREDO, Mr. ANDREWS, Mr. SMITH of Texas, Mr. UPTON, Mr. HINOJOSA, Mr. GOODE, Mr. DEUTSCH, Mr. SCHROCK, Mr. SCHAFFER, Mrs. ROUKEMA, Mr. HOEKSTRA, Mr. GREENWOOD, Mr. NORWOOD, Mr. KELLER, Mr. TERRY, Mr. BACA, Mr. BURTON of Indiana, Mr. PAUL, Ms. HART, Mr. PLATTS, Mr. PETRI, Mr. SHIMKUS, Mr. KILDEE, Mr. HORN, Mr. DEMINT, Mrs. BIGGERT, Mr. OSBORNE, Mr. DOYLE, Mr. STRICKLAND, and Mr. RAMSTAD

OCTOBER 2, 2001

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Higher Education Act of 1965 to expand

the opportunities for higher education via telecommunications.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “ Internet Equity and
 5 Education Act of 2001”.

6 **SEC. 2. EXCEPTION TO 50 PERCENT CORRESPONDENCE**
 7 **COURSE LIMITATIONS.**

8 (a) **DEFINITION OF INSTITUTION OF HIGHER EDU-**
 9 **CATION FOR TITLE IV PURPOSES.**—Section 102(a) of the
 10 Higher Education Act of 1965 (20 U.S.C. 1002(a)) is
 11 amended by adding at the end the following new para-
 12 graph:

13 “(7) **EXCEPTION TO LIMITATION BASED ON**
 14 **COURSE OF STUDY.**—Courses offered via tele-
 15 communications (as defined in section 484(l)(4))
 16 shall not be considered to be correspondence courses
 17 for purposes of paragraph (3)(A) for any institution
 18 that—

19 “(A) is participating in either or both of
 20 the loan programs under part B or D of title
 21 IV on the date of enactment of the Internet Eq-
 22 uity and Education Act of 2001; and

23 “(B) has a cohort default rate (as deter-
 24 mined under section 435(m)) for each of the 3

1 most recent fiscal years for which data are
2 available that is less than 10 percent.”.

3 (b) DEFINITION OF ELIGIBLE STUDENT.—Section
4 484(l)(1) of the Higher Education Act of 1965 (20 U.S.C.
5 1091(l)(1)) is amended by adding at the end the following
6 new subparagraph:

7 “(C) EXCEPTION TO 50 PERCENT LIMITA-
8 TION.—Notwithstanding the 50 percent limita-
9 tion in subparagraph (A), a student enrolled in
10 a course of instruction described in such sub-
11 paragraph shall not be considered to be enrolled
12 in correspondence courses if the student is en-
13 rolled in an institution that—

14 “(i) is participating in either or both
15 of the loan programs under part B or D of
16 title IV on the date of enactment of the
17 Internet Equity and Education Act of
18 2001; and

19 “(ii) has a cohort default rate (as de-
20 termined under section 435(m)) for each of
21 the 3 most recent fiscal years for which
22 data are available that is less than 10 per-
23 cent.”.

1 **SEC. 3. DEFINITION OF ACADEMIC YEAR.**

2 Section 481(a)(2) of the Higher Education Act of
3 1965 (20 U.S.C. 1088(a)(2)) is amended by inserting
4 after the first sentence the following new sentence: “For
5 the purposes of any program under this title (whether a
6 standard or nonstandard term program), a week of in-
7 struction is defined as a week in which at least one day
8 of instruction, examination, or preparation for examina-
9 tion occurs.”.

10 **SEC. 4. INCENTIVE COMPENSATION.**

11 (a) **AMENDMENT.**—Part G of title IV of the Higher
12 Education Act of 1965 is amended by inserting after sec-
13 tion 484B (20 U.S.C. 1091b) the following new section:

14 **“SEC. 484C. INCENTIVE COMPENSATION PROHIBITED.**

15 “No institution of higher education participating in
16 a program under this title shall make any payment of a
17 commission, bonus, or other incentive, non-salary pay-
18 ment, based directly on success in securing enrollments
19 or financial aid, to any person or entity directly engaged
20 in student recruiting or admission activities, or making de-
21 cisions regarding the award of student financial assist-
22 ance, except that this section shall not apply to the recruit-
23 ment of foreign students residing in foreign countries who
24 are not eligible to receive Federal student assistance.”.

25 (b) **CONFORMING AMENDMENT.**—Paragraph (20) of
26 section 487(a) (20 U.S.C. 1094(a)(20)) is repealed.

1 (e) ~~TECHNICAL AMENDMENT.~~—Section 487(e)(1) of
 2 the Higher Education Act of 1965 (20 U.S.C. 1094(e)(1))
 3 is amended by striking “paragraph (2)(B)” each place it
 4 appears in subparagraphs (F) and (H) and inserting
 5 “paragraph (3)(B)”.

6 **SECTION 1. SHORT TITLE.**

7 *This Act may be cited as the “Internet Equity and*
 8 *Education Act of 2001”.*

9 **SEC. 2. EXCEPTION TO 50 PERCENT CORRESPONDENCE**
 10 **COURSE LIMITATIONS.**

11 (a) *DEFINITION OF INSTITUTION OF HIGHER EDU-*
 12 *CATION FOR TITLE IV PURPOSES.*—Section 102(a) of the
 13 *Higher Education Act of 1965 (20 U.S.C. 1002(a)) is*
 14 *amended by adding at the end the following new paragraph:*

15 “(7) *EXCEPTION TO LIMITATION BASED ON*
 16 *COURSE OF STUDY.*—*Courses offered via telecommuni-*
 17 *cations (as defined in section 484(l)(4)) shall not be*
 18 *considered to be correspondence courses for purposes*
 19 *of subparagraph (A) or (B) of paragraph (3) for any*
 20 *institution that—*

21 “(A) *is participating in either or both of the*
 22 *loan programs under part B or D of title IV on*
 23 *the date of enactment of the Internet Equity and*
 24 *Education Act of 2001;*

1 “(B) has a cohort default rate (as deter-
2 mined under section 435(m)) for each of the 3
3 most recent fiscal years for which data are avail-
4 able that is less than 10 percent; and

5 “(C)(i) has notified the Secretary, in a form
6 and manner prescribed by the Secretary (includ-
7 ing such information as the Secretary may re-
8 quire to meet the requirements of clause (ii)), of
9 the election by such institution to qualify as an
10 institution of higher education by means of the
11 provisions of this paragraph; and

12 “(ii) the Secretary has not, within 90 days
13 after such notice, and the receipt of any informa-
14 tion required under clause (i), notified the insti-
15 tution that the election by such institution would
16 pose a significant risk to Federal funds and the
17 integrity of programs under title IV.”.

18 (b) *DEFINITION OF ELIGIBLE STUDENT.*—Section
19 484(l)(1) of the Higher Education Act of 1965 (20 U.S.C.
20 1091(l)(1)) is amended by adding at the end the following
21 new subparagraph:

22 “(C) *EXCEPTION TO 50 PERCENT LIMITA-*
23 *TION.*—Notwithstanding the 50 percent limita-
24 tion in subparagraph (A), a student enrolled in
25 a course of instruction described in such sub-

1 paragraph shall not be considered to be enrolled
2 in correspondence courses if the student is en-
3 rolled in an institution that—

4 “(i) is participating in either or both
5 of the loan programs under part B or D of
6 title IV on the date of enactment of the
7 Internet Equity and Education Act of 2001;

8 “(ii) has a cohort default rate (as de-
9 termined under section 435(m)) for each of
10 the 3 most recent fiscal years for which data
11 are available that is less than 10 percent;
12 and

13 “(iii)(I) has notified the Secretary, in
14 form and manner prescribed by the Sec-
15 retary (including such information as the
16 Secretary may require to meet the require-
17 ments of subclause (II)), of the election by
18 such institution to qualify its students as el-
19 igible students by means of the provisions of
20 this subparagraph; and

21 “(II) the Secretary has not, within 90
22 days after such notice, and the receipt of
23 any information required under subclause
24 (I), notified the institution that the election
25 by such institution would pose a significant

1 *risk to Federal funds and the integrity of*
2 *programs under title IV.”.*

3 **SEC. 3. DEFINITION OF ACADEMIC YEAR.**

4 *Section 481(a) of the Higher Education Act of 1965*
5 *(20 U.S.C. 1088(a)) is amended by adding at the end the*
6 *following new paragraph:*

7 “(3) *For the purposes of any eligible program, a week*
8 *of instruction is defined as a week in which at least one*
9 *day of regularly scheduled instruction or examinations oc-*
10 *curs, or at least one day of study for final examinations*
11 *occurs after the last scheduled day of classes. For an edu-*
12 *cational program using credit hours, but not using a semes-*
13 *ter, trimester, or quarter system, an institution of higher*
14 *education shall notify the Secretary, in the form and man-*
15 *ner prescribed by the Secretary, if the institution plans to*
16 *offer an eligible program of instruction of less than 12 hours*
17 *of regularly scheduled instruction, examinations, or prepa-*
18 *ration for examinations for a week of instructional time.”.*

19 **SEC. 4. INCENTIVE COMPENSATION.**

20 *(a) AMENDMENT.—Part G of title IV of the Higher*
21 *Education Act of 1965 is amended by inserting after section*
22 *484B (20 U.S.C. 1091b) the following new section:*

23 **“SEC. 484C. INCENTIVE COMPENSATION PROHIBITED.**

24 “(a) *PROHIBITION.—No institution of higher edu-*
25 *cation participating in a program under this title shall*

1 *make any payment of a commission, bonus, or other incen-*
2 *tive payment, based directly on success in securing enroll-*
3 *ments or financial aid, to any person or entity directly en-*
4 *gaged in student recruiting or admission activities, or mak-*
5 *ing decisions regarding the award of student financial as-*
6 *sistance, except that this section shall not apply to the re-*
7 *cruitment of foreign students residing in foreign countries*
8 *who are not eligible to receive Federal student assistance.*

9 “(b) *EXCEPTIONS.—Subsection (a) does not apply to*
10 *payment of a commission, bonus, or other incentive*
11 *payment—*

12 “(1) *pursuant to any contract with any third-*
13 *party service provider that has no control over eligi-*
14 *bility for admission or enrollment or the awarding of*
15 *financial aid at the institution of higher education,*
16 *provided that no employee of the third-party service*
17 *provider is paid a commission, bonus, or other incen-*
18 *tive payment based directly on success in securing en-*
19 *rollments or financial aid; or*

20 “(2) *to persons or entities for success in securing*
21 *agreements, contracts, or commitments from employ-*
22 *ers to provide financial support for enrollment by*
23 *their employees in an institution of higher education*
24 *or for activities that may lead to such agreements,*
25 *contracts, or commitments.*

1 “(c) *EXCEPTION FOR FIXED COMPENSATION.*—For
2 purposes of subsection (a), a person shall not be treated as
3 receiving incentive compensation when such person receives
4 a fixed compensation that is paid regularly for services and
5 that is adjusted no more frequently than every six months.”.

6 (b) *CONFORMING AMENDMENT.*—Paragraph (20) of
7 section 487(a) of the Higher Education Act of 1965 (20
8 U.S.C. 1094(a)(20)) is repealed.

9 (c) *TECHNICAL AMENDMENT.*—Section 487(c)(1) of the
10 Higher Education Act of 1965 (20 U.S.C. 1094(c)(1)) is
11 amended by striking “paragraph (2)(B)” each place it ap-
12 pears in subparagraphs (F) and (H) and inserting “para-
13 graph (3)(B)”.

14 **SEC. 5. EVALUATION AND REPORT.**

15 (a) *INFORMATION FROM INSTITUTIONS.*—

16 (1) *INSTITUTIONS COVERED BY REQUIREMENT.*—

17 The requirements of paragraph (2) apply to any in-
18 stitution of higher education that—

19 (A) has notified the Secretary of Education
20 of an election to qualify for the exception to limi-
21 tation based on course of study in section
22 102(a)(7) of the Higher Education Act of 1965
23 (20 U.S.C. 1002(a)(7)) or the exception to the 50
24 percent limitation in section 484(l)(1)(C) of such
25 Act (20 U.S.C. 1091(l)(1)(C));

1 (B) has notified the Secretary under section
2 481(a)(3) of such Act (20 U.S.C. 1088(a)(3)); or

3 (C) contracts with outside parties for—

4 (i) the delivery of distance education
5 programs;

6 (ii) the delivery of programs offered in
7 nontraditional formats; or

8 (iii) the purpose of securing the enroll-
9 ment of students.

10 (2) *REQUIREMENTS.*—Any institution of higher
11 education to which this paragraph applies shall com-
12 ply, on a timely basis, with the Secretary of Edu-
13 cation’s reasonable requests for information on
14 changes in—

15 (A) the amount or method of instruction of-
16 fered;

17 (B) the types of programs or courses offered;

18 (C) enrollment by type of program or
19 course;

20 (D) the amount and types of grant, loan, or
21 work assistance provided under title IV of the
22 Higher Education Act of 1965 that is received by
23 students enrolled in programs conducted in non-
24 traditional formats; and

1 (E) outcomes for students enrolled in such
2 courses or programs.

3 (b) *REPORT BY SECRETARY REQUIRED.*—The Sec-
4 retary of Education shall conduct by grant or contract a
5 study of, and by March 31, 2003, submit to the Congress,
6 a report on—

7 (1) the effect that the amendments made by this
8 Act have had on—

9 (A) the ability of institutions of higher edu-
10 cation to provide distance learning opportunities
11 to students; and

12 (B) program integrity;

13 (2) with respect to distance education or cor-
14 respondence education courses at institutions of high-
15 er education to which the information requirements of
16 subsection (a)(2) apply, changes from year-to-year
17 in—

18 (A) the amount or method of instruction of-
19 fered and the types of programs or courses of-
20 fered;

21 (B) the number and type of students en-
22 rolled in distance education or correspondence
23 education courses;

1 (C) the amount of student aid provided to
2 such students, in total and as a percentage of the
3 institution's revenue; and

4 (D) outcomes for students enrolled in dis-
5 tance education or correspondence education
6 courses, including graduation rates, job place-
7 ment rates, and loan delinquencies and defaults;

8 (3) any reported and verified claim of induce-
9 ment to participate in the student financial aid pro-
10 grams and any violation of the Higher Education Act
11 of 1965, including any actions taken by the Depart-
12 ment of Education against the violator; and

13 (4) any further improvements that should be
14 made to the provisions amended by this Act (and re-
15 lated provisions), in order to accommodate nontradi-
16 tional educational opportunities in the Federal stu-
17 dent assistance programs while ensuring the integrity
18 of those programs.

19 **SEC. 6. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.**

20 Section 420J of the Higher Education Act of 1965 (20
21 U.S.C. 1070f-6) is amended by adding at the end the fol-
22 lowing new sentence: "If for any fiscal year funds are not
23 appropriated pursuant to this section, funds available
24 under part B of title VII, relating to the Fund for the Im-
25 provement of Postsecondary Education, may be made avail-

1 *able for continuation grants for any grant recipient under*
2 *this subpart.”.*

3 **SEC. 7. IMPLEMENTATION.**

4 (a) *NO DELAY IN EFFECTIVE DATE.*—Section 482(c)
5 *of the Higher Education Act of 1965 (20 U.S.C. 1089(c))*
6 *shall not apply to the amendments made by this Act.*

7 (b) *IMPLEMENTING REGULATIONS.*—Section 492 of the
8 *Higher Education Act of 1965 (20 U.S.C. 1098a) shall not*
9 *apply to the amendments made by sections 2 and 3 of this*
10 *Act.*

Union Calendar No. 137

107TH CONGRESS
1ST SESSION

H. R. 1992

[Report No. 107-225]

A BILL

To amend the Higher Education Act of 1965 to expand the opportunities for higher education via telecommunications.

OCTOBER 2, 2001

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed