

103D CONGRESS
1ST SESSION

S. 1507

AN ACT

To make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes.

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To make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes.

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; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Higher Education Technical Amendments Act of 1993”.

1 (b) REFERENCES.—Except as otherwise expressly
2 provided, whenever in this Act an amendment or repeal
3 is expressed in terms of an amendment to, or repeal of,
4 a section or other provision, the reference shall be consid-
5 ered to be made to a section or other provision of the
6 Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

7 **SEC. 2. EFFECTIVE DATE FOR PELL GRANTS FOR INCAR-**
8 **CERATED INDIVIDUALS.**

9 Section 410 of the Higher Education Amendments of
10 1992 (20 U.S.C. 1070a note) is amended—

11 (1) by redesignating paragraphs (2) and (3) as
12 paragraphs (3) and (4), respectively; and

13 (2) by inserting after paragraph (1) the follow-
14 ing new paragraph:

15 “(2) that the changes made in section
16 401(b)(8)(B), relating to Federal Pell Grants for in-
17 carcerated individuals, shall apply to the awarding of
18 Federal Pell Grants for periods of enrollment on or
19 after July 1, 1996;”.

20 **SEC. 3. BASIC EDUCATIONAL OPPORTUNITY GRANTS.**

21 The second sentence of section 401(a)(1) (20 U.S.C.
22 1070a(a)(1)) is amended by inserting “, except that this
23 sentence shall not be construed to limit the authority of
24 the Secretary to place an institution on a reimbursement
25 system of payment” before the period.

1 **SEC. 4. EARLY INTERVENTION APPLICATION.**

2 Section 404G (20 U.S.C. 1070a-27) is amended—

3 (1) in the first sentence, by striking “an appro-
4 priation” and inserting “to be appropriated”; and

5 (2) by striking the second sentence.

6 **SEC. 5. INTEREST RATES FOR NEW BORROWERS AFTER OC-
7 TOBER 1, 1992.**

8 The matter preceding subparagraph (A) of section
9 427A(e)(1) (20 U.S.C. 1077a(e)(1)) is amended by insert-
10 ing “(other than a loan made, insured or guaranteed
11 under section 428A)” after “this part”.

12 **SEC. 6. FORBEARANCE CLARIFICATION.**

13 Subparagraph (A) of section 428(c)(3) (20 U.S.C.
14 1078(c)(3)(A)) is amended by striking “for the benefit of
15 the student borrower serving in a medical or dental intern-
16 ship or residency program”.

17 **SEC. 7. UNSUBSIDIZED LOAN INTEREST RATES.**

18 Paragraph (4) of section 428H(e) (20 U.S.C. 1978-
19 8(e)(4)) is amended by striking “427A(e)” and inserting
20 “427A”.

21 **SEC. 8. PRESERVATION OF BORROWER CLAIMS AS DE-
22 FENSES.**

23 Paragraph (1) of section 432(m) (20 U.S.C.
24 1082(m)(1)) is amended by adding at the end the follow-
25 ing new subparagraph:

1 “(E) PRESERVATION OF BORROWER CLAIMS AS
2 DEFENSES.—

3 “(i) The promissory note prescribed by the
4 Secretary shall include the following provision:

5 “‘ANY HOLDER OF THIS NOTE IS SUBJECT
6 TO ALL CLAIMS AND DEFENSES WHICH I COULD
7 ASSERT AGAINST THE SCHOOL IF (1) THIS LOAN
8 IS MADE BY THE SCHOOL OR (2) THE PROCEEDS
9 OF THIS LOAN ARE USED TO PAY TUITION AND
10 CHARGES OF A SCHOOL THAT REFERS LOAN AP-
11 PPLICANTS TO THE LENDER, OR THAT IS AFFILI-
12 ATED WITH THE LENDER BY COMMON CON-
13 TROL, CONTRACT OR BUSINESS ARRANGEMENT.
14 MY RECOVERY UNDER THIS PROVISION SHALL
15 NOT EXCEED THE AMOUNT I PAID ON THIS
16 LOAN.’

17 “(ii) For purposes of this subparagraph—

18 “(I) an institution shall be considered
19 to refer loan applicants to a particular
20 lender if the institution urges, suggests, or
21 otherwise recommends that loan applicants
22 borrow from the lender and the lender is
23 on notice of such recommendation by the
24 institution at the time the loan is made,
25 unless the institution does no more than

1 identify the lender as an available source
2 of student loans; and

3 “(II) a business arrangement exists if
4 the lender and the institution agree to en-
5 gage in cooperative activity with regard to
6 the making of loans for students in attend-
7 ance at the institution, except for activity
8 specifically and expressly required by this
9 Act or regulations issued by the Secretary.

10 “(iii) Notwithstanding the provisions of
11 section 433.2 of title 16, Code of Federal Regu-
12 lations, the provisions of clauses (i) and (ii)
13 shall apply to all loans made, insured or guar-
14 anteed under this part.”.

15 **SEC. 9. COHORT DEFAULT RATE.**

16 (a) FINDINGS.—The Congress finds that—

17 (1) many institutions of higher education with
18 high cohort default rates have avoided or sought to
19 avoid loss of eligibility under the Federal Family
20 Education Loan Program by alleging improper serv-
21 icing or collection of the defaulted loans taken into
22 account in determining their default rates;

23 (2) institutions of higher education bear a fair
24 share of the blame for the increased level of defaults
25 in such program;

1 (3) since a borrower remains responsible for
2 paying on a loan even if there is improper loan serv-
3 icing or collection it would not be fair to forgive the
4 institution of higher education for the default based
5 on such errors, and exclusion of such loans would re-
6 sult in a misleading cohort default rate which is not
7 reflective of the institution's performance;

8 (4) providing institutions of higher education
9 with access to servicing or collection records relating
10 to loans taken into account in determining the insti-
11 tution's cohort default rate, for the purpose of ap-
12 pealing the loss of eligibility, would frustrate the
13 statutory purpose of reducing student loan defaults
14 because collection and review of the records could
15 not be completed within the statutory time frames
16 for such review; and

17 (5) it is unnecessary to afford institutions of
18 higher education such access to loan records because
19 the statutory threshold percentages for loss of eligi-
20 bility due to high cohort default rates are substan-
21 tially above the preferred level of such rates for eligi-
22 ble institutions.

23 (b) SIMPLIFICATION OF DEFINITION OF COHORT DE-
24 FAULT RATE.—Subparagraph (B) of section 435(m)(1)
25 (20 U.S.C. 1085(m)(1)(B)) is amended by striking all be-

1 ginning with “, and,” through “calculation of the cohort
2 default rate”.

3 (c) EFFECTIVE DATE AND SAVINGS PROVISION.—

4 (1) EFFECTIVE DATE.—The amendment made
5 by subsection (b) shall be effective on the date of en-
6 actment of this Act and shall apply to all determina-
7 tions made by the Secretary under section
8 435(m)(1)(B) of the Higher Education Act of 1965
9 on or after that date, including determinations made
10 on or after such date for fiscal years for which the
11 Secretary made determinations under such section
12 prior to such date.

13 (2) SAVINGS PROVISION.—The amendment
14 made by subsection (b) shall not affect a determina-
15 tion of institutional eligibility made before the date
16 of enactment of this Act.

17 **SEC. 10. FEDERAL WORK-STUDY PROGRAMS.**

18 Paragraph (5) of section 443(b) (20 U.S.C.
19 2753(b)(5) is amended to read as follows:

20 “(5) provide that the Federal share of the com-
21 pensation of students employed in the work-study
22 program in accordance with the agreement shall not
23 exceed 75 percent for academic year 1993–1994 and
24 succeeding academic years, except that the Federal
25 share may exceed such amounts of such compensa-

1 tion if the Secretary determines, pursuant to regula-
2 tions promulgated by the Secretary establishing ob-
3 jective criteria for such determinations, that a Fed-
4 eral share in excess of such amounts is required in
5 furtherance of the purpose of this part;”.

6 **SEC. 11. COST OF ATTENDANCE.**

7 Section 472 (20 U.S.C. 1087ll) is amended—

8 (1) in paragraph (10), by striking “and” after
9 the semicolon;

10 (2) in paragraph (11), by striking the period
11 and inserting “; and”; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(12) for a student who receives a loan under
15 part B or D of this title (or on whose behalf the par-
16 ent of such student receives a loan under section
17 428B or part D), an allowance for the actual cost
18 of any loan fee, origination fee, or insurance pre-
19 mium charged to such student or such parent on
20 such loan, or the average cost of any such fee or
21 premium charged by the Secretary, eligible lender,
22 or guaranty agency making or insuring such loan, as
23 the case may be.”.

24 **SEC. 12. CLARIFICATION REGARDING IRS FILINGS.**

25 Section 479 (20 U.S.C. 1087ss) is amended—

1 (1) in subsection (b)(3)—

2 (A) in subparagraph (A), by inserting “(in-
3 cluding any prepared or electronic version of
4 such form)” before “required”; and

5 (B) in subparagraph (B), by inserting
6 “(including any prepared or electronic version
7 of such return)” before “required”; and

8 (2) in subsection (c)—

9 (A) by amending subparagraph (A) of
10 paragraph (1) to read as follows:

11 “(A) the student’s parents were not re-
12 quired to file an income tax return under sec-
13 tion 6012(a)(1) of the Internal Revenue Code
14 of 1986; and”;

15 (B) by amending subparagraph (A) of
16 paragraph (2) to read as follows:

17 “(A) the student (and the student’s
18 spouse, if any) was not required to file an in-
19 come tax return under section 6012(a)(1) of the
20 Internal Revenue Code of 1986; and”.

21 **SEC. 13. DISCRETION OF STUDENT FINANCIAL AID OFFI-**

22 **CER.**

23 Section 479A (20 U.S.C. 1087tt) is amended by add-
24 ing at the end the following new subsection:

1 “(c) ADJUSTMENTS FOR SPECIAL CIR-
2 CUMSTANCES.—

3 “(1) IN GENERAL.—A student financial aid ad-
4 ministrators shall be considered to be making an ad-
5 justment for special circumstances in accordance
6 with subsection (a) if—

7 “(A) in the case of a dependent student—

8 “(i) such student received a Federal
9 Pell Grant as a dependent student in aca-
10 demic year 1992–1993 and the amount of
11 such student’s Federal Pell Grant for aca-
12 demic year 1993–1994 is at least \$500
13 less than the amount of such student’s
14 Federal Pell Grant for academic year
15 1992–1993; and

16 “(ii) the decrease described in clause
17 (i) is the direct result of a change in the
18 determination of such student’s need for
19 assistance in accordance with this part
20 that is attributable to the enactment of the
21 Higher Education Amendments of 1992;
22 and

23 “(B) in the case of a single independent
24 student—

1 “(i) such student received a Federal
2 Pell Grant as a single independent student
3 in academic year 1992–1993 and qualified
4 as an independent student in accordance
5 with section 480(d) for academic year
6 1993–1994, and the amount of such stu-
7 dent’s Federal Pell Grant for academic
8 year 1993–1994 is at least \$500 less than
9 the amount of such student’s Federal Pell
10 Grant for academic year 1992–1993; and

11 “(ii) the decrease described in clause
12 (i) is the direct result of a change in the
13 determination of such student’s need for
14 assistance in accordance with this part
15 that is attributable to the enactment of the
16 Higher Education Amendments of 1992.

17 “(2) AMOUNT.—A financial aid administrator
18 shall not make an adjustment for special cir-
19 cumstances pursuant to this subsection in an
20 amount that exceeds one-half of the difference be-
21 tween the amount of a student’s Federal Pell Grant
22 for academic year 1992–1993 and the amount of
23 such student’s Federal Pell Grant for academic year
24 1993–1994.

1 “(3) ACADEMIC YEAR LIMITATION.—A financial
2 aid administrator only shall make adjustments under
3 this subsection for Federal Pell Grants awarded for
4 academic years 1993–1994, 1994–1995, and 1995–
5 1996.

6 “(4) SPECIAL RULE.—Adjustments under this
7 subsection shall only be made in fiscal year 1993 if
8 an Act that contains an appropriation for fiscal year
9 1993 to carry out this subsection is enacted on or
10 after the date of enactment of the Higher Education
11 Technical Amendments of 1993.”.

12 **SEC. 14. CORRESPONDENCE RULE WAIVER.**

13 Subparagraph (B) of section 481(a)(3) (20 U.S.C.
14 1088(a)(3)(B)) is amended by inserting “, except that the
15 Secretary, for good cause as determined by the Secretary,
16 may deem a nonprofit institution that provides a 4-year
17 or 2-year program of instruction for which such institution
18 awards a bachelor’s or associate’s degree to be in compli-
19 ance with the provisions of this subparagraph” before the
20 semicolon.

21 **SEC. 15. WAIVER OF ABILITY TO BENEFIT RULE FOR CER-**
22 **TAIN SCHOOLS.**

23 Subparagraph (D) of section 481(a)(3) (20 U.S.C.
24 1088(a)(3)(D)) is amended by inserting “, except that the
25 Secretary, for good cause as determined by the Secretary,

1 may deem an institution that has entered into a contract
2 with a Federal, State or local government entity to serve
3 students described in section 484(d) to be in compliance
4 with the provisions of this subparagraph” before the pe-
5 riod.

6 **SEC. 16. DEFINITION OF ACADEMIC YEAR.**

7 Paragraph (2) of section 481(d) (20 U.S.C.
8 1088(d)(2)) is amended by inserting “, except that the
9 Secretary may waive the 30-week requirement described
10 in this paragraph for good cause as determined by the Sec-
11 retary” before the period.

12 **SEC. 17. TREATMENT OF UNCOMPENSATED FINANCIAL AID**
13 **APPLICATION PREPARERS.**

14 Subsection (f) of section 483 (20 U.S.C. 1090(f)) is
15 amended by striking “the preparer of such financial aid
16 application” and inserting “any individual who receives
17 compensation from an applicant or an applicant’s family
18 for the purpose of preparing such financial aid application,
19 and nothing in this paragraph shall be construed to re-
20 quire an individual who does not receive such compensa-
21 tion to include such information on such application”.

22 **SEC. 18. STUDENT ELIGIBILITY FOR FORMER TRUST TERRI-**
23 **TORIES.**

24 Subparagraph (B) of section 484(a)(4) (20 U.S.C.
25 1091(a)(4)(B)) is amended by inserting “, except that the

1 provisions of this subparagraph shall not apply to students
2 from the Republic of the Marshall Islands, the Federated
3 States of Micronesia, or the Republic of Palau” after
4 “number”.

5 **SEC. 19. DISCLOSURE OF COMPLETION OR GRADUATION**
6 **RATE.**

7 Subparagraph (A) of section 485(a)(3) (20 U.S.C.
8 1092(a)(3)(A)) is amended by striking “beginning on July
9 1, 1993, and each year” and inserting “within 270 days
10 after the date on which the Secretary issues final regula-
11 tions implementing the provisions of this paragraph and
12 each July 1”.

13 **SEC. 20. INDEPENDENCE OF ACCREDITING AGENCIES.**

14 Subparagraph (A) of section 496(a)(3) (20 U.S.C.
15 1099b(a)(3)(A)) is amended by striking “subparagraph
16 (A) of paragraph (2)” and inserting “clause (i) of para-
17 graph (2)(A)”.

18 **SEC. 21. OPERATING PROCEDURES FOR ACCREDITING**
19 **AGENCIES.**

20 The matter preceding paragraph (1) of section 496(c)
21 (20 U.S.C. 1099b(c)(1)) is amended by inserting “deter-
22 mining an institution of higher education’s eligibility to
23 participate in programs under” after “purpose of”.

1 **SEC. 22. FINANCIAL RESPONSIBILITY STANDARDS.**

2 Subsection (c) of section 498 (20 U.S.C. 1099c(c))
3 is amended—

4 (1) in paragraph (3)—

5 (A) in the matter preceding subparagraph

6 (A)—

7 (i) by striking “may” and inserting
8 “shall”; and

9 (ii) by inserting “that provides a 2-
10 year or 4-year program of instruction for
11 which the institution awards an associate’s
12 or bachelor’s degree” before “to be”; and

13 (B) by amending subparagraph (C) to read
14 as follows:

15 “(C) such institution submits a report to
16 the Secretary from an independent certified
17 public accountant that certifies that the institu-
18 tion has sufficient resources to ensure against
19 the precipitous closure of such institution, in-
20 cluding the ability to meet all of such institu-
21 tion’s financial obligations (including refunds of
22 institutional charges and repayments to the
23 Secretary for liabilities and debts incurred in
24 programs administered by the Secretary); or”;
25 and

1 (2) by adding at the end the following new
2 paragraph:

3 “(6)(A) In carrying out the provisions of this
4 subsection the Secretary shall establish financial re-
5 sponsibility standards that include requiring an in-
6 stitution of higher education to maintain an asset-
7 to-liability ratio of 1:1.

8 “(B) For the purpose of computing an asset-to-
9 liability ratio described in subparagraph (A) and
10 paragraph (2), an institution—

11 “(i) may count as a current asset the eq-
12 uity (the difference between book cost and the
13 mortgage owed) in facilities (land and build-
14 ings) owned and occupied by such institution
15 and used to provide education and training
16 services described in such institution’s official
17 publications;

18 “(ii) in the case of an application for
19 recertification under this section, shall take into
20 consideration the depreciation and current value
21 of such facilities determined in accordance with
22 a professional appraisal; and

23 “(iii) shall use the lesser value between the
24 equity value and the current value of such fa-
25 cilities.”.

1 **SEC. 23. NATIONAL BOARD FOR PROFESSIONAL TEACHING**
2 **STANDARDS.**

3 Section 551 (20 U.S.C. 1107) is amended—

4 (1) in paragraph (1) of subsection (b), by strik-
5 ing “the Federal share of”;

6 (2) in subparagraph (B) of subsection (e)(1), by
7 striking “share of the cost of the activities of the
8 Board is” and inserting “contributions described in
9 subsection (f) are”; and

10 (3) by amending subsection (f) to read as fol-
11 lows:

12 “(f) MATCHING FUNDS REQUIREMENT.—

13 “(1) IN GENERAL.—The Secretary shall not
14 provide financial assistance under this subpart to
15 the Board unless the Board agrees to expend non-
16 Federal contributions equal to \$1 for every \$1 of the
17 Federal funds provided pursuant to such financial
18 assistance.

19 “(2) NON-FEDERAL CONTRIBUTIONS.—The
20 non-Federal contributions described in paragraph
21 (1)—

22 “(A) may include all non-Federal funds
23 raised by the Board on or after January 1,
24 1987; and

25 “(B) may be used for outreach, implemen-
26 tation, administration, operation, and other

1 costs associated with the development and im-
2 plementation of national teacher assessment
3 and certification procedures under this sub-
4 part.”.

5 **SEC. 24. COOPERATIVE EDUCATION.**

6 The matter preceding paragraph (1) of section
7 802(b) (20 U.S.C. 1133a(b)(1)) is amended by inserting
8 “the Secretary shall reserve such amount as is necessary
9 to make payments in such fiscal year, in accordance with
10 section 802 of the Higher Education Act of 1965 (as such
11 Act was in effect on July 22, 1992) to each institution
12 of higher education that was, on the date of enactment
13 of the Higher Education Amendments of 1992, operating
14 a cooperative education program under such section pur-
15 suant to a multiyear award. Of the remainder of the
16 amount appropriated in such fiscal year” after “fiscal
17 year”.

18 **SEC. 25. PACIFIC REGIONAL EDUCATIONAL LABORATORY.**

19 The matter preceding paragraph (1) of section
20 101A(b) of the Carl D. Perkins Vocational and Applied
21 Technology Education Act (20 U.S.C. 2311a(b)) is
22 amended—

23 (1) by striking “Center for the Advancement of
24 Pacific Education, Honolulu, Hawaii, or its succes-
25 sor entity as the Pacific regional educational labora-

1 tory” and inserting “Pacific Regional Educational
2 Laboratory, Honolulu, Hawaii”; and

3 (2) by inserting “or provide direct services re-
4 garding” after “grants for”.

5 **SEC. 26. DISTRIBUTION OF FUNDS TO POSTSECONDARY**
6 **AND ADULT PROGRAMS.**

7 Section 232 of the Carl D. Perkins Vocational and
8 Applied Technology Education Act (20 U.S.C. 2341a) is
9 amended—

10 (1) in subsection (a)—

11 (A) in the first sentence, by inserting “or
12 consortia thereof” before “within”; and

13 (B) in the second sentence—

14 (i) by inserting “or consortium” be-
15 fore “shall”; and

16 (ii) by inserting “or consortium” be-
17 fore “in the preceding”;

18 (2) in subsection (b)—

19 (A) in paragraph (1), by inserting “or con-
20 sortia” after “institutions”; and

21 (B) in the matter preceding subparagraph
22 (A) of paragraph (2), by inserting “or consor-
23 tia” after “institutions”; and

24 (3) in subsection (c)—

1 (A) in paragraph (1), by inserting “or con-
2 sortium” after “institution”; and

3 (B) in paragraph (2), by inserting “or con-
4 sortia” after “institutions”.

5 **SEC. 27. GRADUATE PROGRAMS.**

6 Notwithstanding any other provision of law, if an in-
7 dividual received multiyear fellowship assistance under
8 part B, C, or D of title IX of the Higher Education Act
9 of 1965 in fiscal year 1992, then the Secretary of Edu-
10 cation shall apply the provisions of such parts (as such
11 parts were in effect on July 22, 1992) for the remainder
12 of the duration of such multiyear fellowship assistance.

13 **SEC. 28. PATRICIA ROBERTS HARRIS FELLOWSHIP PRO-**
14 **GRAM.**

15 The Secretary of Education may use funds made
16 available to carry out part B of title IX of the Higher
17 Education Act of 1965 (20 U.S.C. 1134d et seq.) for fiscal
18 year 1994 to carry out the provisions of section 27 for
19 individuals eligible for multiyear fellowship assistance

- 1 under part B (as such part was in effect on July 22, 1992)
- 2 in fiscal year 1993.

Passed the Senate October 7 (legislative day, September 27), 1993.

Attest:

Secretary.

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