

## Union Calendar No. 137

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> 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.

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### 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]

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## 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.*



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**[Report No. 107-225]**

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**A BILL**

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