Public Law 95-43
95th Congress

An Act

To make certain technical and miscellaneous amendments to provisions relating to higher education contained in the Education Amendments of 1976.

June 15, 1977
[H.R. 6774]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Higher Education Act of 1965 is amended as follows:

Higher Education Act of 1965, amendments.

(1) Section 103(a) of the Higher Education Act of 1965 is amended by striking out "July 1, 1975" and inserting in lieu thereof "July 1, 1974". 20 USC 1003.

(2) Section 104 of such Act is amended by striking out the comma after "material sharing programs". 20 USC 1004.

(3) Section 105(a)(6) of such Act is amended by inserting "provide" immediately before "assurances". 20 USC 1005.

(4) Section 133(a)(7) of such Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Assistant Secretary's". 20 USC 1015b.

(5)(A) Section 411(b)(3)(B) of the Act is amended by redesignating divisions (ii), (iii), and (iv) as divisions (iii), (iv), and (v), respectively, and by inserting after division (i) the following: 20 USC 1070a.

"(ii) If, during any fiscal year, funds available for making payments under this subpart exceed the amount necessary to make the payments prescribed in division (i), such excess shall be paid with respect to each entitlement under this subpart in proportion to the degree to which that entitlement is unsatisfied.".

(B) Subparagraphs (A) and (B) of section 411(b)(4) of the Act are each amended by inserting ", at the end of a fiscal year," after "If".

(6) Section 415C(b)(4) of such Act is amended by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978". 20 USC 1070c-2.

(7) Section 415E of such Act is amended by striking out "having an agreement under section 428(b)" and inserting in lieu thereof "operating, through an agency of the State or through a nonprofit private institution or organization designated by a State, a program under section 428(b)". 20 USC 1070c-4. *Post*, p. 215.

(8) Section 421(a) of such Act is amended by striking out "428(c)(1)(A)" and inserting in lieu thereof "428(a)(1)(C)". 20 USC 1071.

(9) Sections 421(b)(3) and 427(a)(2)(E) of such Act are each amended by striking out the period at the end thereof and inserting in lieu thereof a comma. 20 USC 1077.

(10) Section 421(c)(1) of such Act is amended by inserting "(whether operated by an agency of the State or by a nonprofit private institution or organization designated by the State)" after "by each State".

(11) Section 422(c)(2) of such Act is amended— 20 USC 1072.

(A) in subparagraph (A)—

(i) by striking out "the greater of (i) $50,000, or (ii)";

(ii) by inserting "of loans made by lenders and" after "10 per centum of the principal amount";

(B) in subparagraph (B), by inserting at the end thereof the following new sentence: "Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance

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to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000."; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

"(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

"(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.".

20 USC 1072. (12) Section 422(c)(5)(B) of such Act is amended by inserting after "effective date of this subsection" the following: "or which is not actively carrying on a program under an agreement pursuant to such section on such date".

(13) Section 422(c)(6)(B)(iii) of such Act is amended by inserting "eligible" immediately before "institution" each place it appears.

20 USC 1073. (14) Section 423(b) of such Act is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and by adding after such paragraph the following:

"(3) under such circumstances as may be approved by the State or nonprofit private institution or organization in such State with which the Commissioner has an agreement under section 428(b), for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.".

Post, p. 215.

20 USC 1075. (15) Section 425(a)(1)(A) of such Act is amended—

(A) by striking out "a loan to a student who is or will be in his first year of a program of undergraduate education" and inserting in lieu thereof "loans to a student for his first academic year of a program of postsecondary education";

(B) by striking out "program which is" and inserting in lieu thereof "program, which are";

(C) by striking out "or which is" and inserting in lieu thereof "or which are"; and

(D) by striking out "the loan" and inserting in lieu thereof "the total of such loans".

(16) Section 425(a)(1)(B) of such Act is amended by striking out "to a student for his first academic year of postsecondary education" and inserting in lieu thereof "to such a first-year student".

(17) Section 425(a)(1) of such Act is amended by inserting after the last sentence thereof the following: "For the purpose of clause (B), all loans made within any period of 90 days shall be considered a single loan.".

20 USC 1077. (18) Section 427(a)(2)(G) of such Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a comma.

20 USC 1078. (19) The last sentence of section 428(a)(8)(A) of such Act is amended by striking out "over the course of the academic year" and inserting in lieu thereof "over the period of enrollment for which the loan is made".

(20) Section 428(a)(9) of such Act is amended— 20 USC 1078.

(A) by inserting "a determination must be made as to whether" after "for which";

(B) by striking out "the determinations to be made (except the determinations of good standing)" and inserting in lieu therof "the determination to be made"; and

(C) by striking out "(2)(A)(i) and".

(21) Section 428(b)(1)(A) of such Act is amended—

(A) by inserting "in any academic year or its equivalent (as determined under regulations of the Commissioner)" after "(A) authorizes the insurance";

(B) in division (i)—

(i) by striking out "a loan which is made" and inserting in lieu thereof "loans which are made";

(ii) by striking out "or which is" and inserting in lieu thereof "or which are"; and

(iii) by striking out "to a student who has not successfully completed a program of undergraduate education in an amount in excess" and inserting in lieu thereof "to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, in an amount in excess of the lesser";

(C) in division (ii), by striking out "to a student for his first academic year of postsecondary education" and inserting in lieu thereof "to such a first-year student"; and

(D) by inserting immediately before the semicolon at the end thereof the following: ", and all loans issued within any period of 90 days shall be considered as a single loan for purposes of division (ii)".

(22) Section 428(b)(1) of such Act is amended—

(A) by inserting "and" at the end of subparagraph (O);

(B) by striking out subparagraph (P); and

(C) by redesignating subparagraph (Q) as subparagraph (P).

(23) Subparagraph (C) of section 428(c)(1) of such Act is amended—

(A) by striking out "insured by it" and inserting in lieu thereof "made by a lender which are insured by such an institution or organization"; and

(B) by inserting "and" at the end of clause (ii), and by striking out ", and" at the end of clause (iii) and the remainder of such subparagraph and inserting in lieu thereof a period.

(24) Section 428(c)(5) of such Act is amended—

(A) by striking out "entered into prior to September 1, 1969"; and

(B) by striking out "in effect on that date" and everything that follows through "the Commissioner may" and inserting in lieu thereof "an agreement pursuant to subsection (b) of this section, the Commissioner may".

(25) Section 428(c)(6) of such Act is amended—

(A) in subparagraph (A), by inserting "and for the purpose of section 428A(b)(5)" after "For the purpose of paragraph (2)(D)" and by striking out "pursuant to such paragraph"; 20 USC 1078-1.

(B) in subparagraph (A)(ii)—

(i) by striking out "of the loan" and inserting in lieu thereof "of loans reimbursed under this subsection";

(ii) by striking out "reimbursed pursuant to subsection (f)"; and

(iii) by inserting immediately before the period at the end thereof "and have not been reimbursed under subsection (f)"; and

(C) in subparagraph (B)(i), by striking out "costs of collection of the loan'" and inserting in lieu thereof "costs of collection of loans'".

20 USC 1078.

(26) Section 428(c)(7)(A)(ii) of such Act is amended by striking out "guarantee agreement under this subsection" and by inserting in lieu thereof "guarantee agreement under subsection (b) of this section".

(27) Section 428(f)(1) is amended—

(1) by striking out "Each" in subparagraph (B) and inserting in lieu thereof "Except as provided in subparagraph (C), each"; and

(2) by inserting after such subparagraph (B) the following:

"(C) For any State which is eligible to receive a reserve fund advance under section 422(c)(5)(B), the spending minimum required by subparagraph (B) with respect to purposes described in clauses (ii) and (iii) of subparagraph (A) shall, for the first year of such eligibility, not be applicable and shall, for the second and third years of such eligibility, be an amount equal to 20 per centum of the payments received under this paragraph.".

Ante, p. 214.

(28) Paragraph (2) of section 428(f) of such Act is amended by striking out "(2)(A)" and inserting in lieu thereof "(2)", and by striking out subparagraph (B).

(29) Section 428(f)(3)(A) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma.

20 USC 1078-1.

(30) Paragraphs (1)(A) and (2)(A) of section 428A(a) of such Act are each amended by inserting "who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Commissioner)" after "to any individual student" and by inserting "not" immediately before "successfully completed".

(31) Paragraphs (1) and (2) of section 428A(a) of such Act are each amended by striking out clause (C) and by inserting in lieu thereof, in each such paragraph, the following:

Eligible lenders.

"(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;".

(32) Section 428A(b)(5) of such Act is amended by inserting, within the parentheses, "consistent with section 428(c)(6)" after "regulations prescribed by the Commissioner".

20 USC 1080.

(33) Section 430(a) of such Act is amended by striking out "interest accrued" and inserting in lieu thereof "accrued interest, including interest accruing".

20 USC 1083.

(34) Section 433(a)(2) of such Act is amended by inserting "clause (A) of" immediately before "paragraph (1)".

20 USC 1085.

(35) Section 435(g)(1)(B) of such Act is amended by striking out "Employees" and inserting in lieu thereof "Employee".

(36) Section 435(g)(3) of such Act is amended by striking out "the amount of the loan described in section 428(a)(1) made" and inserting in lieu thereof "the total amount of such loans as are described in section 428(a)(1) made by the institution".

20 USC 1087-1.

(37) Section 438 of such Act is amended—

(A) by striking out "unpaid balance of disbursed principal" in subsection (b)(1) and inserting in lieu thereof "average unpaid balance of principal";

(B) by striking out "and" at the end of clause (ii) of subsection (b)(2)(A) and by inserting immediately before the period at the end of clause (iii) of such subsection the following new clause: ", and (iv) by dividing the resultant per centum by four";

(C) by striking out "subparagraph (4)" in subsection (b)(2)(C) and inserting in lieu thereof "paragraph (4)";

(D) by striking out "paragraph (3)" in subsection (b)(4)(B) and inserting in lieu thereof "paragraph (2)";

(E) by striking out "subparagraph" in subsection (b)(4)(C) and inserting in lieu thereof "paragraph"; and

(F) by redesignating the matter following paragraph (5) of subsection (b) as paragraph (6) and by striking out, in such matter, "subsection (a)" and inserting in lieu thereof "this subsection".

(38) Section 439(b)(1) of the Act is amended by inserting "and citizen" after "resident". 20 USC 1087-2.

(39) Section 464(c)(2) of such Act is amended by striking out "title VIII of the Economic Opportunity Act of 1964" and inserting in lieu thereof "the Domestic Volunteer Act of 1973". 20 USC 1087dd. 42 USC 4951 note.

(40)(A) The first sentence of section 493(a) of such Act is amended by— 20 USC 1088b.

(i) striking out "part A or C" and inserting in lieu thereof "subpart 2 of part A, part C, or part E";

(ii) striking out "either" and inserting in lieu thereof "any"; and

(iii) striking out "in lieu of reimbursement for its expenses during such fiscal year in administering programs assisted under such part" and inserting in lieu thereof "for the purposes set forth in subsection (c)".

(B) The second sentence of such section 493(a) is amended by adding before the period at the end thereof a comma and the following: "plus (C) the principal amount of loans made during such fiscal year from its student loan fund established under part E".

(C) Section 493(b) of such Act is amended to read as follows:

"(b) The aggregate amount paid to an institution for a fiscal year under this section may not exceed $325,000.".

(41) Section 497A(c) of such Act is amended by striking out "paragraph (a)(3)" and inserting in lieu thereof "subsection (a)(4)". 20 USC 1088f-1.

(42) Section 533(a)(2) of such Act is amended by striking out "section 532 of this title" and inserting in lieu thereof "section 406(d)(1)(D) of the General Education Provisions Act". 20 USC 1119a-1. 20 USC 1226.

(43) Section 771 of such Act is amended— 20 USC 1132d-11.

(A) by striking out "grants from funds appropriated under section 721(b)," in subsection (a);

(B) by striking out "In determining" each place it appears in subsection (b) and inserting in lieu thereof "In establishing criteria for determining"; and

(C) by adding at the end thereof the following new subsections: Grants and loans.

"(d) Grants and loans awarded for the purposes of this part shall not be subject to the provisions of subsections (a) and (b) of section 781. The Commissioner shall, with respect to each such grant or loan, determine the period which shall be deemed to be the period of Federal interest in the facility reconstructed or renovated. If, within such period, such facility ceases to be used as an academic facility, the United States shall recover from the applicant (or its successor in title *Post*, p. 218.

or possession) an amount representing the depreciated value of the improvements made with such grant or loan, determined in accordance with the procedures set forth in the last sentence of section 781(b).

Funds.
20 USC 1132a.

"(e) Funds appropriated under section 701(b) available for grants under this part may be used for graduate and undergraduate facilities and may be used without regard to whether such funds will increase or create enrollment capacity, health care capacity, or capacity to carry out extension and containing education programs.".

20 USC 1132e.

(44) Section 781 of such Act is amended by striking out ", reconstruction, or renovation" each place it appears in such section and by striking out "reconstructed or renovated" each place it appears in subsections (a) and (b) of such section.

20 USC 1005.

(b)(1) Section 101(b) of the Education Amendments of 1976 is amended by striking out paragraph (5)(A) and by redesignating paragraph (5)(B) as paragraph (5).

(2) Paragraph (6)(A) of section 101(b) of such Amendments is amended by striking out "institution" and inserting in lieu thereof "institutions".

20 USC 1070c.

(3) Section 123(a) of such Amendments is amended by striking out "by adding at the end thereof the following new paragraph:" and inserting in lieu thereof "by amending paragraph (3) to read as follows:".

20 USC 1071 note.

(4) Section 127(b) of such Amendments is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The changes made in—

20 USC 1075.
20 USC 1078.
20 USC 1077.

"(A) sections 425(a) (other than paragraphs (1) (A) and (B) thereof) and 428(b)(1)(A) other than divisions (i) and (ii) thereof, and sections 427(a)(1)(C) and 428(b)(1)(B) shall become applicable with respect to loans to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

"(B) sections 425(a)(1) (A) and (B) and 428(b)(1)(A) (i) and (ii) shall become applicable with respect to loans made on or after February 12, 1977, to cover such costs for such periods beginning on or after November 12, 1976;

"(C) sections 427(a)(2) (G) and (H) and 428(b)(1)(N), (O), and (P) shall become applicable with respect to loans made on or after June 1, 1977;" and

(B) in paragraph (5), by inserting "on or after February 12, 1977" after "loans made", and by striking out "October 1, 1976" and inserting in lieu thereof "November 12, 1976".

90 Stat. 2153.

(5) Section 153 of such Amendments is amended by striking out "(a)" after "SEC. 153.".

20 USC 1132c-4.

(6) Section 162(g) of such Amendments is amended by striking out "(1)" after "(g)" and by striking out paragraph (2).

90 Stat. 2167.

(7) Section 181 of such Amendments is amended by inserting "(a)" after "SEC. 181." and by adding at the end thereof the following:

20 USC 1141 note.
20 USC 1085.
90 Stat. 2099.
20 USC 1141.

"(b) Neither the amendment made by subsection (a) of this section nor the amendment made to section 435(b)(1) of the Act (by section 127(a) of this Act) shall be construed to authorize terminating the eligibility of an institution which was deemed to be an institution of higher education for purposes of sections 435(b)(1) and 1201(a) on the date of enactment of this Act. The preceding sentence of this section shall not be construed to impair the authority of the Commissioner to limit, suspend, or terminate such eligibility for the reasons and as provided by section 497 of the Act.".

20 USC 1088f.

(8) Section 343(a)(1) of such Amendments is amended by striking out "this section" and inserting in lieu thereof "this part". 20 USC 2533.

(c) Section 604 of the National Defense Education Act of 1958 is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1979,". 20 USC 513.

(d) Section 448 of the General Education Provisions Act is amended by striking out "March 31" and inserting in lieu thereof "June 30". 20 USC 1233g.

SEC. 2. (a) Except as provided in subsection (b), the amendments made by the first section of this Act shall take effect October 12, 1976. Effective date. 20 USC 1071 note.

(b)(1) Except as provided in paragraph (2), amendments made by the first section of this Act to part B of title IV of the Higher Education Act of 1965 shall take effect as provided by subsection (b) of section 127 of the Education Amendments of 1976, as amended by this Act, and shall, for purposes of such subsection, collectively be deemed to be an amendment made by subsection (a) of such section. 20 USC 1071. 20 USC 1071 note.

(2) The amendments made by paragraphs (17), (20), and (21)(D) of subsection (a) of the first section of this Act shall take effect thirty days after the date of its enactment. No determination made pursuant to section 428(a)(9) of the Higher Education Act of 1965 as in effect between September 30, 1976, and such thirtieth day after enactment of this Act shall be invalid if such determination, at a minimum, complies with such section as amended by such paragraph (20). 20 USC 1078.

Approved June 15, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-269 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 123 (1977):
May 9, considered and passed House.
May 25, considered and passed Senate, amended.
June 1, House concurred in Senate amendments.