This is an unofficial transcription of the bankruptcy provisions of Public Law 102-325 (July 23, 1992), with the pages around them, prepared by Robert J. Pfister for ease of reading and copying/pasting. The authoritative text is the United States Statutes at Large.

One Hundred Second Congress, Session II
Public Law 102-325 — 106 Stat. 448 (S. 1150)
July 23, 1992

AN ACT *To reauthorize the Higher Education Act of 1965, and for other purposes.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; DEFINITIONS; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 1992".

(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

(c) DEFINITIONS.—Unless otherwise provided therein, terms used in titles XIII, XIV, and XV shall have the same meaning given to such terms in section 1201 of the Higher Education Act of 1965.

(d) TABLE OF CONTENTS.—

Sec. 1. Short title; references; table of contents.
Sec. 2. General effective date.
TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE
Sec. 101. Revision of title I.
"TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE
"PART A—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS
"Sec. 101. Purpose.
"Sec. 102. Agreement.
"Sec. 103. Grants.
"Sec. 104. Grant application.

"Sec. 105. Peer review.
"Sec. 106. Authorization of appropriations.
"PART B—ARTICULATION AGREEMENTS
"Sec. 121. Findings and purpose.
"Sec. 122. Authorization of grants.
"Sec. 123. State application.
"Sec. 124. Local applications.
"Sec. 125. Articulation agreement.
"Sec. 126. State administration.
"Sec. 127. Priority.
"Sec. 128. Reports.
"Sec. 129. Authorization of appropriations.
"PART C—ACCESS AND EQUITY TO EDUCATION FOR ALL AMERICANS THROUGH TELECOMMUNICATIONS
"Sec. 131. Program established; authorization of appropriations; eligibility.
"Sec. 132. Application.
"Sec. 133. Authorized activities.
"Sec. 134. Definition.
"Sec. 135. Report.
TITLE II—ACADEMIC LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT
Sec. 201. Revision of title II.
"TITLE II—ACADEMIC LIBRARIES AND INFORMATION SERVICES
"Sec. 201. Purpose; authorization.

[106 Stat. 449–550 omitted (102 pages)]

by the institution) and ceased to be in a period of forbearance based on such enrollment. Each eligible lender of a loan made under section 428A shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

"(3) REGULATIONS TO PREVENT EVASIONS.—The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of

such measures as branching, consolidation, change of ownership or control, or any similar device.".

SEC. 428. REPAYMENTS BY SECRETARY.

Section 437 of the Act (20 U.S.C. 1087) is amended to read as follows:

"REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW

"SEC. 437. (a) REPAYMENT IN FULL FOR DEATH AND DISABILITY.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) REPAYMENT OF AMOUNT SUBJECT TO BANKRUPTCY ACTION.—If the collection of a loan described in subparagraph (A) or (B) of section 428(a)(1) or sections 428A, 428B, 428C, or 428H is stayed in any action under title 11, United States Code, the Secretary shall repay the unpaid balance of principal and interest owed on the loan.

"(c) DISCHARGE.—

"(1) IN GENERAL.—If a student borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part is unable to complete the program in which the borrower is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against

the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part H.

"(2) ASSIGNMENT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

"(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title.

[106 Stat. 552–605 omitted (54 pages)]

a fee for collecting, processing, or delivering such supplementary information.

"(b) ADJUSTMENTS TO ASSETS TAKEN INTO ACCOUNT.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if—

"(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

"(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

"SEC. 479B. DISREGARD OF STUDENT AID IN OTHER FEDERAL PROGRAMS.

"Notwithstanding any other provision of law, student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

"SEC. 479C. NATIVE AMERICAN STUDENTS.

"In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

> "(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act; and
>
> "(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act or the Maine Indian Claims Settlement Act.

"SEC. 480. DEFINITIONS.

"As used in this part:

"(a) TOTAL INCOME.—(1) Except as provided in paragraph (2), the term 'total income' is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e)).

"(2) No portion of any student financial assistance received from any program by an individual shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this Act.

"(b) UNTAXED INCOME AND BENEFITS.—The term 'untaxed income and benefits' means—

"(1) child support received;

"(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(3) workman's compensation;

"(4) veterans' benefits such as death pension, dependency, and indemnity compensation, but excluding veterans' education benefits as defined in subsection (c);

"(5) interest on tax-free bonds;

[106 Stat. 607–609 omitted (3 pages)]

"(ii) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

If such accreditation standards are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1201(a).

"(C) The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by

subparagraph (A) of this paragraph shall render such institution ineligible for the purpose of part B of this title.

"(D) The Secretary shall, not later than one year after the date of enactment of the Higher Education Amendments of 1992, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the regulations required by subparagraph (A) of this paragraph.

"(E) If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under this title, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

"(3) An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1), if such institution—

> "(A) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act;
>
> "(B) enrolls 50 percent or more of its students in correspondence courses, unless the institution is an institution that meets the definition in such section;
>
> "(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the prohibition of this subparagraph for a nonprofit institution that provides a 4-year or a 2-year program of instruction (or both) for which it awards a bachelor's or associate's degree, respectively; or

"(D) has a student enrollment in which more than 50 percent of the students are admitted pursuant to section 484(d) and does not provide a 4-year or a 2-year program of instruction (or both) for which it awards a bachelor's or associate's degree, respectively.

"(4) An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

"(A) such institution has filed for bankruptcy; or

"(B) the institution, its owner, or its chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title.

"(5) The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part H.

"(6) An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for

[106 Stat. 611–841 omitted (231 pages)]

expanding that assistance, purchase American-made equipment and products.

APPROVED July 23, 1992.