



**Legislative Bulletin.....February 28, 2012**

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**H.R. 2117—Protecting Academic Freedom in Higher Education Act**

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**H.R. 2117—Protecting Academic Freedom in higher Education Act  
(Foxx, R-NC)**

**Order of Business:** The bill is scheduled to be considered on February 28, 2012, under a structured Rule, [H. Res 563](#). This rule provides one hour of debate, split evenly by both sides. This rule makes in order five amendments summarized below. Each is debatable for ten minutes.

**Summary:** [H.R. 2117](#) overturns two Department of Education rules. On October 29, 2010 the Department of Education issued a regulation establishing a federal definition of a “credit hour” (75 Fed. Reg. 66946). This legislation would overturn that regulation and prohibit future federal definitions of a “credit hour” by the Department of Education. H.R. 2117 would also overturn another Department of Education regulation (75 Fed. Reg. 66832 et seq.) that forces states to follow federal requirements when deciding whether to grant a college or university permission to operate within the state.

**Additional Background:** President Reagan and other conservatives has argued for eliminating the Department of Education and it was part of the Republican Platform until 2000 (<http://educationnext.org/the-politics-of-no-child-left-behind/>). Many conservatives might argue that federal involvement in state’s education should be very carefully scrutinized, but federal encroachment upon higher education would be an even bigger overreach by the federal government.

A regulation measuring student learning through “credit hours” at the federal level will restrict innovation, limit flexibility, and obstruct innovative teaching methods that could help students. For example, what one-size definition would apply to online courses/correspondence courses? This type of innovation will lead to education being available to more people who aren’t able to leave the workforce or are deployed abroad in the military, will increase competition to drive down overall costs, and will help further educate our workforce.

**Committee Action:** [H.R. 2117](#) was introduced on June 3, 2011. It was referred to the House Education and the Workforce Committee. On June 15, 2011, the committee marked-up the legislation, and on July 22, 2011, the Committee reported out the legislation by a vote of 27-11 (House Report: [112-177](#)).

**Administration Position:** According to the SAP” “The Administration strongly opposes H.R. 2117, which would nullify certain Department of Education regulations that help ensure the integrity of the programs of student financial assistance under Title IV of the Higher Education Act of 1965. These regulations are necessary to prevent the inflation of the academic credits attributed to postsecondary education courses that could result in the over-awarding of Federal student aid, and for the efficient administration of the student financial aid programs. Congress should not prevent the Secretary of Education from responsibly administering these programs and ensuring that consumers and taxpayers are protected from fraud, waste, and abuse.”

**Cost to Taxpayers:** The CBO estimates that implementing H.R. 2117 would have an insignificant effect on authorized discretionary spending. Because only a small number of students would be eligible for additional student aid, CBO estimates that the direct spending effects would be insignificant for each year. The CBO report can be found [here](#).

**Does the Bill Expand the Size and Scope of the Federal Government?:** No, the legislation reduces the size of the federal government.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No,. The CBO report specifies that there are no mandates within this legislation.

**Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The legislation does not appear to contain any earmarks.

**Amendments:**

1. *Representative Bishop (D-NY)* [Amendment #2](#)  
**Summary:** This amendment would strike subsection b of section 2 from the bill, which removes the provision overturning the Department of Education’s regulation on defining “credit hour,” thereby allowing the Department of Education to regulate “credit hours.”
2. *Representative Foxx (R-NC)* [Amendment #3](#)  
**Summary:** This amendment will make the restriction on defining “credit hour” to impact clock hour programs as well. This further restricts the impact of rule-making by the Department of Education.
3. *Representative Grijalva (D-AZ)* [Amendment #8](#)  
**Summary:** This amendment would remove the provision overturning the Department of Education’s regulation on state requirements for student complaints, thereby allowing the Department of Education to keep state requirements.
4. *Representative Polis (D-CO)* [Amendment #8](#)  
**Summary:** This amendment would link state authorization regulations to student achievement. The Secretary of Education would be allowed to apply the regulations repealed to any institution of higher education with a graduation rate that is below the national average, a cohort default rate that is higher than the national average, or a

completion rate that is below the national average. In other words, it would let the Department of Education keep their regulations for “failing” institutions of higher learning, that fail any of these barometers. Overall this could mean that over 50% of institutions would be under the regulation.

5. *Representative Polis (D-CO)* [Amendment](#) #8

**Summary:** This amendment would require the Secretary of Education to present a plan to prevent waste, fraud and abuse of federal financial aid dollars and ensure effective use of taxpayer dollars.

**Constitutional Authority:** According to the sponsor:

“Article I, Section 8 of the United States Constitution”

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