

SUBJECT: Urging Congress to recognize independent universities and financial aid

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 9 ayes — Branch, Castro, Alonzo, Bonnen, Brown, D. Howard, Johnson, Lewis, Patrick
0 nays

WITNESSES: For — Carol McDonald, Independent Colleges and Universities of Texas, Inc.
Against — None

BACKGROUND: Since the 1960s, the federal Higher Education Act has required every college or university to be authorized by a state to participate in federal student aid programs. Until October 2010, federal law and regulations required institutions to be legally authorized to provide a program of education beyond secondary education, but did not expand upon the requirement.

In October 2010, the U.S. Department of Education (DOE) changed some guidelines in the regulations governing federal student financial assistance programs. Specifically, 34 Code of Federal Regulations, sec. 600.9 was amended to clarify the role of the states in assuring the integrity of federal student aid programs. These new regulations will go into effect on July 1, 2011.

The new regulations require institutions to be established by name and by the state where located through a charter, statute, constitutional provision, or other action, and to be authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate. The DOE issued these regulations knowing that all public institutions are established in such a manner. However, few private institutions are. Over 30 states, including Texas, have had to or will have to amend or modify their laws to comply with the regulations.

Current law regulates private postsecondary educational institutions that may be either nonprofit institutions or proprietary, for-profit businesses

that provide education and training. The proprietary institutions are required to have a certificate of authority and follow other regulations relating to advertising, solicitation, and terminology. Since independent college and universities are accredited by accrediting bodies approved by the Texas Higher Education Coordinating Board, they are exempt from these regulations.

DIGEST:

HJR 130 would instruct the 82nd Legislature to notify the DOE that certain specified independent colleges and universities were authorized in Texas to operate educational programs beyond secondary education, including programs leading to a degree or certificate, and that Texas has therefore met the conditions of 34 C.F.R., sec. 600.9.

HJR 130 would require the Texas secretary of state to forward official copies of the resolution to the secretary of education, the president of each college and university named, the president of the U.S. Senate and the speaker of the U.S. House, and all the members of the Texas delegation to Congress with the request that it be entered into the congressional record as a memorial to the U.S. Congress.

HJR 130 would name each of the state's private postsecondary education institutions that was authorized to operate a postsecondary educational program, including a program leading to a degree or certificate.

**SUPPORTERS
SAY:**

HJR 130 is needed to show that Texas' independent institutions comply with DOE. It would in effect re-certify these universities and colleges so that students do not experience any glitches in receiving their federal financial aid.

The most efficient way to accomplish this is for the Legislature by joint resolution to inform the DOE that these institutions are authorized to provide postsecondary education and to list them by name. In Texas, many independent colleges and universities were granted charters at various points in time, but the old method of establishing independent institutions of higher education no longer is used. Many institutions chartered in the 19th or 20th centuries have filed articles of incorporation with the secretary of state to modernize their original documents. Since the institutions must now be established "by name," it has been difficult to determine what the institutions or the state must do to establish that private or independent institutions are authorized to operate. HJR 130 is intended

to take the official state action necessary to comply with the new federal regulation.

Education Code, sec. 61.003 only defines private or independent institutions of higher education as those organized under the Texas Nonprofit Corporation Act, now part of the Texas Business Organizations Code, that are tax exempt and academically accredited. The individual institutions are not named.

Texas is home to many of the institutions covered by Education Code, sec. 61.003 and many have educated students since the mid-1880s. All have been in operation for at least 20 years and are currently eligible to participate in one or more state-funded student financial aid program subject to audit by the Texas Higher Education Coordinating Board.

If a new institution was created, it would file articles of incorporation as a college or university with the secretary of state. At the appropriate time it would seek a certificate of authority to grant degrees from the coordinating board. Once the institution was accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, that institution would be exempt from the requirement to have a certificate of authority to grant degrees. All institutions eligible to participate in state financial aid funding have reached this exempt status.

OPPONENTS
SAY:

No apparent opposition.