

117TH CONGRESS
2D SESSION

S. 4458

To amend title 38, United States Code, to improve the process by which the Secretary of Veterans Affairs determines whether an educational institution meets requirements relating to the percentage of students who receive educational assistance furnished by the Secretary, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2022

Mr. TESTER (for himself and Mr. MORAN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the process by which the Secretary of Veterans Affairs determines whether an educational institution meets requirements relating to the percentage of students who receive educational assistance furnished by the Secretary, and for other purposes.

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 “Ensuring the Best
5 Schools for Veterans Act of 2022”.

1 **SEC. 2. DETERMINATIONS RELATING TO PERCENTAGE OF**
2 **STUDENTS OF EDUCATIONAL INSTITUTION**
3 **WHO RECEIVE EDUCATIONAL ASSISTANCE BY**
4 **DEPARTMENT OF VETERANS AFFAIRS.**

5 (a) IN GENERAL.—Subsection (d) of section 3680A
6 of title 38, United States Code, is amended to read as
7 follows:

8 “(d)(1) The Secretary shall not approve the enroll-
9 ment of any eligible veteran, not already enrolled, in any
10 course for any period during which the Secretary finds
11 that more than 85 percent of the students enrolled in the
12 course are having all or part of their tuition, fees, or other
13 charges paid to or for them by the educational institution
14 or by the Department of Veterans Affairs under this title
15 or under chapter 1606 of title 10, except with respect to
16 tuition, fees, or other charges that are paid under a pay-
17 ment plan at an educational institution that the Secretary
18 determines has a history of offering payment plans that
19 are completed not later than 180 days after the end of
20 the applicable term, quarter, or semester.

21 “(2) The Secretary may waive the requirements of
22 paragraph (1), in whole or in part, if the Secretary deter-
23 mines, pursuant to regulations which the Secretary shall
24 prescribe, it to be in the interest of the eligible veteran
25 and the Federal Government.

1 “(3)(A) The Secretary shall establish a process by
2 which an educational institution may request a review of
3 a determination that the educational institution does not
4 meet the requirements of paragraph (1).

5 “(B) An educational institution that requests a re-
6 view under subparagraph (A)—

7 “(i) shall request the review not later than 30
8 days after the start of the term, quarter, or semester
9 for which the determination described in subpara-
10 graph (A) applies; and

11 “(ii) may include any information that the edu-
12 cational institution believes the Department should
13 have taken into account when making the deter-
14 mination, including with respect to any mitigating
15 circumstances.

16 “(C) The Under Secretary of Benefits shall issue an
17 initial decision for each review requested under subpara-
18 graph (A) by not later than 30 days after the date of the
19 request, to the extent feasible.

20 “(D) An educational institution may request the Sec-
21 retary to review the decision by the Under Secretary under
22 subparagraph (C). The Secretary shall review each deci-
23 sion so requested and, pursuant to such review, shall issue
24 a final decision sustaining, modifying, or overturning the
25 decision by the Under Secretary.

1 “(E) The Secretary shall carry out this paragraph
2 without regard to any review process carried out by the
3 Secretary under chapter 51 of this title.

4 “(4) Paragraph (1) shall not apply to any course of-
5 fered by an educational institution if—

6 “(A) the majority of courses offered by the edu-
7 cational institution are approved under section 3672
8 or 3675 of this title; and

9 “(B) the total number of veterans and persons
10 receiving assistance under this title or under chapter
11 1606 of title 10 who are enrolled in such institution
12 equals 35 percent or less of the total student enroll-
13 ment at such institution (computed separately for
14 the main campus and any branch or extension of
15 such institution).

16 “(5)(A) Paragraph (1) shall not apply to any course
17 offered by an educational institution if—

18 “(i) the majority of courses offered by the edu-
19 cational institution are approved under section 3676
20 of this title; and

21 “(ii) the total number of veterans and persons
22 receiving assistance under this title or under chapter
23 1606 of title 10 who are enrolled in such institution
24 equals 35 percent or less of the total student enroll-
25 ment at such institution (computed separately for

1 the main campus and any branch or extension of
2 such institution).

3 “(B) Notwithstanding subparagraph (A), on a case
4 by case basis, the Secretary may apply paragraph (1) with
5 respect to any course otherwise covered by such subpara-
6 graph if the Secretary has reason to believe that the en-
7 rollment of veterans and persons described in clause (ii)
8 of such subparagraph may be in excess of 85 percent of
9 the total student enrollment in such course.

10 “(6) The Secretary shall ensure that an educational
11 institution that meets the requirements of paragraph (4)
12 or (5) submits information to the Secretary on a biennial
13 basis to verify meeting such requirements. During such
14 biennial period in which an educational institution is cov-
15 ered by such verification, the Secretary may not require
16 the educational institution to submit information with re-
17 spect to meeting the requirements of paragraph (1).

18 “(7) Paragraph (1) shall not apply with respect to
19 the enrollment of a veteran—

20 “(A) in a program of education for which fewer
21 than 10 students are having all or part of their tui-
22 tion, fees, or other charges paid to or for them by
23 the educational institution or by the Department of
24 Veterans Affairs under this title or under chapter
25 1606 of title 10;

1 “(B) in a course offered pursuant to section
2 3019, 3034(a)(3), 3234, or 3241(a)(2) of this title;

3 “(C) in a farm cooperative training course; or

4 “(D) in a course described in subsection (g).”.

5 (b) APPLICATION.—The amendment made by sub-
6 section (a) shall apply with respect to a quarter, semester,
7 or term, as applicable, commencing on or after the date
8 of the enactment of this Act.

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