

108TH CONGRESS
2D SESSION

H. R. 3966

IN THE SENATE OF THE UNITED STATES

MARCH 31, 2004

Received; read twice and referred to the Committee on Armed Services

AN ACT

To amend title 10, United States Code, to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officer Training Corps units at institutions of higher education, to improve the ability of students to participate in Senior ROTC programs, and to ensure that institutions of higher education provide military recruiters entry to campuses and access to students that is at least equal in quality and scope to that provided to any other employer.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “ROTC and Military
3 Recruiter Equal Access to Campus Act of 2004”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) The Reserve Officers Training Corps
7 (ROTC) program is the most common path for un-
8 dergraduates to become United States military offi-
9 cers.

10 (2) The inclusion of both public and private un-
11 dergraduate institutions in the ROTC program in-
12 sures a more racially, ethnically, and socially diverse
13 pool for leadership in the higher ranks of the Armed
14 Forces.

15 (3) The majority of both minority officers and
16 female officers in the Armed Forces are acquired
17 through undergraduate ROTC programs.

18 (4) The presence of ROTC programs on college
19 campuses benefits even those students who are not
20 enrolled by making them aware of the presence and
21 role of the United States military.

22 (5) Land-grant colleges received land from the
23 United States on the condition that they offer some
24 military instruction in addition to their regular cur-
25 riculum, forming the basis for the Nation’s tradition

1 of college and university acceptance of responsibility
2 to contribute to the Nation's readiness.

3 (6) The Armed Forces face a constant challenge
4 in recruiting top-quality personnel that ROTC pro-
5 grams are ideally suited to meet.

6 (7) Military recruiters should have access to
7 college campuses and to college students equal in
8 quality and scope to that provided all other employ-
9 ers.

10 (8) If any college or university discriminates
11 against ROTC programs or military recruiters, then
12 under current law that college or university becomes
13 ineligible for certain Federal taxpayer support, espe-
14 cially funding for many military and defense pro-
15 grams.

16 (9) The personnel and programs of the Depart-
17 ment of Homeland Security and the Department of
18 Energy are mutually dependent upon a high caliber
19 of well-educated, professional leadership in the
20 Armed Forces in order to protect the people and ter-
21 ritory of the United States.

22 (10) In order to more fully promote the ability
23 of the Nation's Armed Forces to recruit on college
24 campuses and to facilitate the ability of students to
25 participate in ROTC programs on campus, the laws

1 to prevent discrimination against ROTC and mili-
 2 tary recruiters should be updated.

3 **SEC. 3. CERTIFICATION OF COMPLIANCE WITH ROTC AC-**
 4 **CESS PROVISIONS.**

5 Subsection (a) of section 983 of title 10, United
 6 States Code, is amended—

7 (1) by inserting “(1)” before “No funds”;

8 (2) by striking “prevents—” and inserting
 9 “prevents, either (or both) of the following:”;

10 (3) by striking “(1) the” and inserting “(A)
 11 The”;

12 (4) by striking “; or” and inserting a period;

13 (5) by striking “(2) a” and inserting “(B) A”;

14 and

15 (6) by adding at the end the following:

16 “(2)(A) Not later than 180 days after the date of
 17 the enactment of the ROTC and Military Recruiter Equal
 18 Access to Campus Act of 2004 and annually thereafter,
 19 the Secretary of Defense shall request from each institu-
 20 tion of higher education that has students participating
 21 in a Senior Reserve Officer Training Corps program dur-
 22 ing the then-current academic year of that institution a
 23 certification that such institution, during the next aca-
 24 demic year of the institution, will—

1 “(i) permit the Secretary of each military de-
2 partment to maintain a unit of the Senior Officer
3 Training Corps (in accordance with subsection (a))
4 at that institution (or any subelement of that insti-
5 tution), should such Secretary elect to maintain such
6 a unit; and

7 “(ii) if the Secretary of the military department
8 concerned elects not to establish or maintain a unit
9 of the Senior Reserve Officer Training Corps at that
10 institution, permit a student of that institution (or
11 any subelement of that institution) to enroll in a
12 unit of the Senior Reserve Officer Training Corps at
13 another institution of higher education.

14 “(B) Any certification under subparagraph (A) shall
15 be made by the president of the institution (or equivalent
16 highest ranking administrative official) and shall be sub-
17 mitted to the Secretary of Defense no later than 90 days
18 after receipt of the request from the Secretary.

19 “(C) In the case of any institution from which a cer-
20 tification is requested under subparagraph (A), if the Sec-
21 retary of Defense does not receive a certification in accord-
22 ance with subparagraph (B), or if the certification does
23 not state that the university will comply with both clauses
24 (i) and (ii) of subparagraph (A) during its next academic
25 year, the Secretary shall make a determination under

1 paragraph (1) as to whether the institution has a policy
 2 or practice described in that paragraph.”.

3 **SEC. 4. EQUAL TREATMENT OF MILITARY RECRUITERS**
 4 **WITH OTHER RECRUITERS.**

5 Subsection (b)(1) of section 983 of title 10, United
 6 States Code, is amended—

7 (1) by striking “entry to campuses” and insert-
 8 ing “access to campuses”; and

9 (2) by inserting before the semicolon at the end
 10 the following: “in a manner that is at least equal in
 11 quality and scope to the degree of access to cam-
 12 pus and to students that is provided to any other
 13 employer”.

14 **SEC. 5. PROHIBITION OF FUNDING FOR POST-SECONDARY**
 15 **SCHOOLS THAT PREVENT ROTC ACCESS OR**
 16 **MILITARY RECRUITING.**

17 (a) COVERED FUNDS.—Subsection (d) of section 983
 18 of title 10, United States Code, is amended—

19 (1) in paragraph (1)—

20 (A) by striking “limitation established in
 21 subsection (a) applies” and inserting “limita-
 22 tions established in subsections (a) and (b)
 23 apply”;

24 (B) in subparagraph (B), by inserting “for
 25 any department or agency for which regular ap-

1 appropriations are made” after “made available”;
2 and

3 (C) by adding at the end the following new
4 subparagraphs:

5 “(C) Any funds made available for the Depart-
6 ment of Homeland Security.

7 “(D) Any funds made available for the National
8 Nuclear Security Administration of the Department
9 of Energy.

10 “(E) Any funds made available for the Depart-
11 ment of Transportation.

12 “(F) Any funds made available for the Central
13 Intelligence Agency.”; and

14 (2) by striking paragraph (2).

15 (b) CONFORMING AMENDMENTS.—(1) Subsection (b)
16 of such section is amended by striking “subsection (d)(2)”
17 and inserting “subsection (d)(1)”.

18 (2) Subsection (e) of such section is amended by in-
19 serting “, to the head of each other department and agen-
20 cy the funds of which are subject to the determination,”
21 after “Secretary of Education”.

22 **SEC. 6. EXCLUSION OF AMOUNTS TO COVER INDIVIDUAL**
23 **PAYMENTS.**

24 (a) CODIFICATION AND EXTENSION OF EXCLU-
25 SION.—Subsection (d) of section 983 of title 10, United

1 States Code, as amended by section 5(a), is further
2 amended—

3 (1) by striking “The” after “(1)” and inserting
4 “Except as provided in paragraph (2), the”; and

5 (2) by adding at the end the following new
6 paragraph:

7 “(2) Any Federal funding specified in paragraph (1)
8 that is provided to an institution of higher education, or
9 to an individual, to be available solely for student financial
10 assistance, related administrative costs, or costs associated
11 with attendance, may be used for the purpose for which
12 the funding is provided.”.

13 (b) CONFORMING AMENDMENTS.—Subsections (a)
14 and (b) of such section are amended by striking “(includ-
15 ing a grant of funds to be available for student aid)”.

16 (c) CONFORMING REPEAL OF CODIFIED PROVI-
17 SION.—Section 8120 of the Department of Defense Ap-
18 propriations Act, 2000 (Public Law 106–79; 10 U.S.C.
19 983 note), is repealed.

1 **SEC. 7. EFFECTIVE DATE.**

2 The amendments made by this Act shall apply with
3 respect to funds appropriated for fiscal year 2005 and
4 thereafter.

 Passed the House of Representatives March 30,
2004.

Attest:

JEFF TRANDAHL,
Clerk.