

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2116

To count revenues from military and veteran education programs toward the limit on Federal revenues that certain proprietary institutions of higher education are allowed to receive for purposes of section 487 of the Higher Education Act of 1965, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2012

Mr. CARPER (for himself, Mr. WEBB, Mr. HARKIN, Mrs. HAGAN, Mrs. MCCASKILL, Mr. ROCKEFELLER, Mr. JOHNSON of South Dakota, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To count revenues from military and veteran education programs toward the limit on Federal revenues that certain proprietary institutions of higher education are allowed to receive for purposes of section 487 of the Higher Education Act of 1965, 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 “Military and Veterans  
5 Education Protection Act”.

1 **SEC. 2. PROGRAM PARTICIPATION AGREEMENTS FOR PRO-**  
 2 **PRIETARY INSTITUTIONS OF HIGHER EDU-**  
 3 **CATION.**

4 Section 487 of the Higher Education Act of 1965 (20  
 5 U.S.C. 1094) is amended—

6 (1) in subsection (a)(24)—

7 (A) by inserting “that receives funds pro-  
 8 vided under this title” before “, such institu-  
 9 tion”; and

10 (B) by striking “other than funds provided  
 11 under this title, as calculated in accordance  
 12 with subsection (d)(1)” and inserting “other  
 13 than Federal educational assistance, as defined  
 14 in subsection (d)(5) and calculated in accord-  
 15 ance with subsection (d)(1)”; and

16 (2) in subsection (d)—

17 (A) in the subsection heading, by striking  
 18 “NON-TITLE IV” and inserting “NON-FED-  
 19 ERAL EDUCATIONAL”;

20 (B) in paragraph (1)—

21 (i) in the matter preceding subpara-  
 22 graph (A), by inserting “that receives  
 23 funds provided under this title” before  
 24 “shall”;

25 (ii) in subparagraph (B)—

1 (I) in clause (i), by striking “as-  
2 sistance under this title” and insert-  
3 ing “Federal educational assistance”;  
4 and

5 (II) in clause (ii)(I), by inserting  
6 “, or on a military base if the admin-  
7 istering Secretary for a program of  
8 Federal educational assistance under  
9 clause (ii), (iii), or (iv) of paragraph  
10 (5)(B) has authorized such location”  
11 before the semicolon;

12 (iii) in subparagraph (C), by striking  
13 “program under this title” and inserting  
14 “program of Federal educational assist-  
15 ance”;

16 (iv) in subparagraph (E), by striking  
17 “funds received under this title” and in-  
18 serting “Federal educational assistance”;  
19 and

20 (v) in subparagraph (F)—

21 (I) in clause (iii), by striking  
22 “under this title” and inserting “of  
23 Federal educational assistance”; and

1 (II) in clause (iv), by striking  
2 “under this title” and inserting “of  
3 Federal educational assistance”;

4 (C) in paragraph (2)—

5 (i) by striking subparagraph (A) and  
6 inserting the following:

7 “(A) INELIGIBILITY.—

8 “(i) IN GENERAL.—Notwithstanding  
9 any other provision of law, a proprietary  
10 institution of higher education receiving  
11 funds provided under this title that fails to  
12 meet a requirement of subsection (a)(24)  
13 for two consecutive institutional fiscal  
14 years shall be ineligible to participate in or  
15 receive funds under any program of Fed-  
16 eral educational assistance for a period of  
17 not less than two institutional fiscal years.

18 “(ii) REGAINING ELIGIBILITY.—To re-  
19 gain eligibility to participate in or receive  
20 funds under any program of Federal edu-  
21 cational assistance after being ineligible  
22 pursuant to clause (i), a proprietary insti-  
23 tution of higher education shall dem-  
24 onstrate compliance with all eligibility and  
25 certification requirements for the program

1 for a minimum of two institutional fiscal  
2 years after the institutional fiscal year in  
3 which the institution became ineligible. In  
4 order to regain eligibility to participate in  
5 any program of Federal educational assist-  
6 ance under this title, such compliance shall  
7 include meeting the requirements of sec-  
8 tion 498 for such 2-year period.

9 “(iii) NOTIFICATION OF INELIGI-  
10 BILITY.—The Secretary of Education shall  
11 determine when a proprietary institution of  
12 higher education that receives funds under  
13 this title is ineligible under clause (i) and  
14 shall notify all other administering Secre-  
15 taries of the determination.

16 “(iv) ENFORCEMENT.—Each admin-  
17 istering Secretary for a program of Fed-  
18 eral educational assistance shall enforce  
19 the requirements of this subparagraph for  
20 the program concerned upon receiving no-  
21 tification under clause (iii) of a proprietary  
22 institution of higher education’s ineligi-  
23 bility.”; and

24 (ii) in subparagraph (B)—

1 (I) in the matter preceding clause

2 (i)—

3 (aa) by striking “In addi-  
4 tion” and all that follows through  
5 “education fails” and inserting  
6 “Notwithstanding any other pro-  
7 vision of law, in addition to such  
8 other means of enforcing the re-  
9 quirements of a program of Fed-  
10 eral educational assistance as  
11 may be available to the admin-  
12 istering Secretary, if a propri-  
13 etary institution of higher edu-  
14 cation that receives funds pro-  
15 vided under this title fails”; and

16 (bb) by striking “the pro-  
17 grams authorized by this title”  
18 and inserting “all programs of  
19 Federal educational assistance”;  
20 and

21 (II) in clause (i), by inserting  
22 “with respect to a program of Federal  
23 educational assistance under this  
24 title,” before “on the expiration date”;

1 (D) in paragraph (4)(A), by striking  
2 “sources under this title” and inserting “Fed-  
3 eral educational assistance”; and

4 (E) by adding at the end the following:

5 “(5) DEFINITIONS.—In this subsection:

6 “(A) ADMINISTERING SECRETARY.—The  
7 term ‘administering Secretary’ means the Sec-  
8 retary of Education, the Secretary of Defense,  
9 the Secretary of Veterans Affairs, the Secretary  
10 of Homeland Security, or the Secretary of a  
11 military department responsible for admin-  
12 istering the Federal educational assistance con-  
13 cerned.

14 “(B) FEDERAL EDUCATIONAL ASSIST-  
15 ANCE.—The term ‘Federal educational assist-  
16 ance’ means funds provided under any of the  
17 following provisions of law:

18 “(i) This title.

19 “(ii) Chapter 30, 31, 32, 33, 34, or  
20 35 of title 38, United States Code.

21 “(iii) Chapter 101, 105, 106A, 1606,  
22 1607, or 1608 of title 10, United States  
23 Code.

24 “(iv) Section 1784a of title 10, United  
25 States Code.”.

1 **SEC. 3. DEPARTMENT OF DEFENSE AND DEPARTMENT OF**  
2 **VETERANS AFFAIRS ACTIONS ON INELIGI-**  
3 **BILITY OF CERTAIN PROPRIETARY INSTITU-**  
4 **TIONS OF HIGHER EDUCATION FOR PARTICI-**  
5 **PATION IN PROGRAMS OF EDUCATIONAL AS-**  
6 **SISTANCE.**

7 (a) DEPARTMENT OF DEFENSE.—

8 (1) IN GENERAL.—Chapter 101 of title 10,  
9 United States Code, is amended by inserting after  
10 section 2008 the following new section:

11 **“§ 2008a. Ineligibility of certain proprietary institu-**  
12 **tions of higher education for participa-**  
13 **tion in Department of Defense programs**  
14 **of educational assistance**

15 “(a) IN GENERAL.—Upon receipt of a notice from  
16 the Secretary of Education under clause (iii) of section  
17 487(d)(2)(A) of the Higher Education Act of 1965 (20  
18 U.S.C. 1094(d)(2)(A)) that a proprietary institution of  
19 higher education is ineligible for participation in or receipt  
20 of funds under any program of Federal educational assist-  
21 ance by reason of such section, the Secretary of Defense  
22 shall ensure that no educational assistance under the pro-  
23 visions of law specified in subsection (b) is available or  
24 used for education at the institution for the period of insti-  
25 tutional fiscal years covered by such notice.

1       “(b) COVERED ASSISTANCE.—The provisions of law  
2 specified in this subsection are the provisions of law on  
3 educational assistance through the Department of Defense  
4 as follows:

5           “(1) This chapter.

6           “(2) Chapters 105, 106A, 106A, 1606, 1607,  
7 and 1608 of this title.

8           “(3) Section 1784a of this title.

9       “(c) NOTICE ON INELIGIBILITY.—(1) The Secretary  
10 of Defense shall take appropriate actions to notify persons  
11 receiving or eligible for educational assistance under the  
12 provisions of law specified in subsection (b) of the applica-  
13 tion of the limitations in section 487(d)(2) of the Higher  
14 Education Act of 1965 to particular proprietary institu-  
15 tions of higher education.

16       “(2) The actions taken under this subsection with re-  
17 spect to a proprietary institution shall include publication,  
18 on the Internet website of the Department of Defense that  
19 provides information to persons described in paragraph  
20 (1), of the following:

21           “(A) The name of the institution.

22           “(B) The extent to which the institution failed  
23 to meet the requirements of section 487(a)(24) of  
24 the Higher Education Act of 1965.

1           “(C) The length of time the institution will be  
2 ineligible for participation in or receipt of funds  
3 under any program of Federal educational assistance  
4 by reason of section 487(d)(2)(A) of that Act.

5           “(D) The nonavailability of educational assist-  
6 ance through the Department for enrollment, at-  
7 tendance, or pursuit of a program of education at  
8 the institution by reason of such ineligibility.”.

9           (2) CLERICAL AMENDMENT.—The table of sec-  
10 tions at the beginning of chapter 101 of such title  
11 is amended by inserting after the item relating to  
12 section 2008 the following new item:

“2008a. Ineligibility of certain proprietary institutions of higher education for participation in Department of Defense programs of educational assistance.”.

13           (b) DEPARTMENT OF VETERANS AFFAIRS.—

14           (1) IN GENERAL.—Subchapter II of chapter 36  
15 of title 38, United States Code, is amended by in-  
16 serting after section 3681 the following new section:

17 **“§ 3681A. Ineligibility of certain proprietary institu-**  
18 **tions of higher education for participa-**  
19 **tion in Department of Veterans Affairs**  
20 **programs of educational assistance**

21           “(a) IN GENERAL.—Upon receipt of a notice from  
22 the Secretary of Education under clause (iii) of section  
23 487(d)(2)(A) of the Higher Education Act of 1965 (20  
24 U.S.C. 1094(d)(2)(A)) that a proprietary institution of

1 higher education is ineligible for participation in or receipt  
2 of funds under any program of Federal educational assist-  
3 ance by reason of such section, the Secretary of Veterans  
4 Affairs shall ensure that no educational assistance under  
5 the provisions of law specified in subsection (b) is available  
6 or used for education at the institution for the period of  
7 institutional fiscal years covered by such notice.

8       “(b) COVERED ASSISTANCE.—The provisions of law  
9 specified in this subsection are the provisions of law on  
10 educational assistance through the Department under  
11 chapters 30, 31, 32, 33, 34, and 35 of this title.

12       “(c) NOTICE ON INELIGIBILITY.—(1) The Secretary  
13 of Veterans Affairs shall take appropriate actions to notify  
14 persons receiving or eligible for educational assistance  
15 under the provisions of law specified in subsection (b) of  
16 the application of the limitations in section 487(d)(2) of  
17 the Higher Education Act of 1965 to particular propri-  
18 etary institutions of higher education.

19       “(2) The actions taken under this subsection with re-  
20 spect to a proprietary institution shall include publication,  
21 on the Internet website of the Department that provides  
22 information to persons described in paragraph (1), of the  
23 following:

24               “(A) The name of the institution.

1           “(B) The extent to which the institution failed  
2 to meet the requirements of section 487(a)(24) of  
3 the Higher Education Act of 1965.

4           “(C) The length of time the institution will be  
5 ineligible for participation in or receipt of funds  
6 under any program of Federal educational assistance  
7 by reason of section 487(d)(2)(A) of that Act.

8           “(D) The nonavailability of educational assist-  
9 ance through the Department for enrollment, at-  
10 tendance, or pursuit of a program of education at  
11 the institution by reason of such ineligibility.”.

12           (2) CLERICAL AMENDMENT.—The table of sec-  
13 tions at the beginning of chapter 36 of such title is  
14 amended by inserting after the item relating to sec-  
15 tion 3681 the following new item:

“3681A. Ineligibility of certain proprietary institutions of higher education for participation in Department of Veterans Affairs programs of educational assistance.”.

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