

112TH CONGRESS
2D 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.

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

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 edu-
 cational 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.”.

