

115TH CONGRESS
1ST SESSION

S. 2109

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

NOVEMBER 9, 2017

Mr. CARPER (for himself, Mr. DURBIN, Mr. BLUMENTHAL, Mr. TESTER, Mrs. MURRAY, Ms. WARREN, Ms. BALDWIN, Mr. REED, Mrs. GILLIBRAND, Mr. BROWN, Mrs. FEINSTEIN, Ms. HIRONO, Ms. HASSAN, Ms. STABENOW, Mrs. SHAHEEN, Mr. FRANKEN, Mr. CARDIN, Mr. WHITEHOUSE, Mr. MURPHY, Mr. VAN HOLLEN, Mr. SANDERS, Mr. MARKEY, Ms. HARRIS, Mr. COONS, Mr. SCHUMER, Mr. MENENDEZ, Mr. MERKLEY, Mr. KING, Ms. DUCKWORTH, Ms. CORTEZ MASTO, Mrs. MCCASKILL, and Mr. SCHATZ) 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Military and Veterans
3 Education Protection Act”.

4 **SEC. 2. PROGRAM PARTICIPATION AGREEMENTS FOR PRO-**
5 **RIETARY INSTITUTIONS OF HIGHER EDU-**
6 **CATION.**

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

9 (1) in subsection (a)(24)—

10 (A) by inserting “that receives funds pro-
11 vided under this title” before “, such institu-
12 tion”; and

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

19 (2) in subsection (d)—

20 (A) in the subsection heading, by striking
21 “NON-TITLE IV” and inserting “NON-FED-
22 ERAL EDUCATIONAL”;

23 (B) in paragraph (1)—

24 (i) in the matter preceding subpara-
25 graph (A), by inserting “that receives

1 funds provided under this title” before
2 “shall”;

3 (ii) in subparagraph (B)—

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

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

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

19 (iv) in subparagraph (E), by striking
20 “funds received under this title” and in-
21 sserting “Federal educational assistance”;
22 and

23 (v) in subparagraph (F)—

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

4 (II) in clause (iv), by striking
5 “under this title” and inserting “of
6 Federal educational assistance”;

7 (C) in paragraph (2)—

8 (i) by striking subparagraph (A) and
9 inserting the following:

10 “(A) INELIGIBILITY.—

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

21 “(ii) REGAINING ELIGIBILITY.—To re-
22 gain eligibility to participate in or receive
23 funds under any program of Federal edu-
24 cational assistance after being ineligible
25 pursuant to clause (i), a proprietary insti-

1 tution of higher education shall dem-
2 onstrate compliance with all eligibility and
3 certification requirements for the program
4 for a minimum of two consecutive institu-
5 tional fiscal years after the institutional
6 fiscal year in which the institution became
7 ineligible. In order to regain eligibility to
8 participate in any program of Federal edu-
9 cational assistance under this title, such
10 compliance shall include meeting the re-
11 quirements of section 498 for such 2-year
12 period.

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

20 “(iv) ENFORCEMENT.—Each admin-
21 istering Secretary for a program of Fed-
22 eral educational assistance shall enforce
23 the requirements of this subparagraph for
24 the program concerned upon receiving no-
25 tification under clause (iii) of a proprietary

1 institution of higher education’s ineligi-
2 bility.”; and

3 (ii) in subparagraph (B)—

4 (I) in the matter preceding clause

5 (i)—

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

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

24 (II) in clause (i), by inserting
25 “with respect to a program of Federal

1 educational assistance under this
2 title,” before “on the expiration date”;

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

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

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

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

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

20 “(i) This title.

21 “(ii) Chapter 30, 31, 32, 33, 34, or
22 35 of title 38, United States Code.

23 “(iii) Chapter 101, 105, 106A, 1606,
24 1607, or 1608 of title 10, United States
25 Code.

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

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

9 (a) DEPARTMENT OF DEFENSE.—

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

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

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

1 used for education at the institution for the period of insti-
2 tutional fiscal years covered by such notice.

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

7 “(1) This chapter.

8 “(2) Chapters 105, 106A, 1606, 1607, and
9 1608 of this title.

10 “(3) Section 1784a of this title.

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

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

23 “(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 101 of such title
14 is amended by inserting after the item relating to
15 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.”.

16 (b) DEPARTMENT OF VETERANS AFFAIRS.—

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

1 **“§ 3681A. Ineligibility of certain proprietary institu-**
2 **tions of higher education for participa-**
3 **tion in Department of Veterans Affairs**
4 **programs of educational assistance**

5 “(a) IN GENERAL.—Upon receipt of a notice from
6 the Secretary of Education under clause (iii) of section
7 487(d)(2)(A) of the Higher Education Act of 1965 (20
8 U.S.C. 1094(d)(2)(A)) that a proprietary institution of
9 higher education is ineligible for participation in or receipt
10 of funds under any program of Federal educational assist-
11 ance by reason of such section, the Secretary of Veterans
12 Affairs shall ensure that no educational assistance under
13 the provisions of law specified in subsection (b) is available
14 or used for education at the institution for the period of
15 institutional fiscal years covered by such notice.

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

20 “(c) NOTICE ON INELIGIBILITY.—(1) The Secretary
21 of Veterans Affairs shall take appropriate actions to notify
22 persons receiving or eligible for educational assistance
23 under the provisions of law specified in subsection (b) of
24 the application of the limitations in section 487(d)(2) of
25 the Higher Education Act of 1965 to particular propri-
26 etary institutions of higher education.

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

6 “(A) The name of the institution.

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

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

14 “(D) The nonavailability of educational assist-
 15 ance through the Department for enrollment, at-
 16 tendance, or pursuit of a program of education at
 17 the institution by reason of such ineligibility.”.

18 (2) CLERICAL AMENDMENT.—The table of sec-
 19 tions at the beginning of chapter 36 of such title is
 20 amended by inserting after the item relating to sec-
 21 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.”.

