116TH CONGRESS
1ST SESSION

TO AMEND THE HIGHER EDUCATION ACT OF 1965 TO COUNT MILITARY AND VETERANS EDUCATION BENEFITS AS FEDERAL EDUCATIONAL ASSISTANCE, AND FOR OTHER PURPOSES.

IN THE SENATE OF THE UNITED STATES

Mr. CARPER (for himself, Mr. LANKFORD, Mr. CASSIDY, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Higher Education Act of 1965 to count military and veterans education benefits as Federal educational assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protect Veterans’ Education and Taxpayer Spending Act of 2019”.

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SEC. 2. COUNTING MILITARY AND VETERAN EDUCATION BENEFITS AS FEDERAL EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 487(a)(24) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(24)) is amended to read as follows:

“(24)(A) In the case of a proprietary institution of higher education (as defined in section 102(b)), such institution will derive not less than ten percent of such institution’s revenues from sources other than Federal educational assistance, as calculated in accordance with subsection (d)(1), or will be subject to the sanctions described in subsection (d)(2).

“(B) In this paragraph, the term ‘Federal educational assistance’ means financial assistance that is disbursed or delivered to an institution or on behalf of a student or to a student to be used to attend the institution provided under any of the following provisions of law:

“(i) This title.

“(ii) Chapter 30, 31, 32, 33, 34, or 35 of title 38, United States Code, except that such term shall not include any monthly housing or book stipend provided under the Post-9/11 Veterans Educational Assistance Program under chapter 33 of title 38, United States Code.

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

“(v) Any other educational assistance programs administered by the Department of Veterans Affairs, Department of Defense, or any other agency that directs funds to students who are members of the Armed Forces or veterans.”.

(b) EFFECTIVE DATE.—The amendment made under subsection (a) shall take effect with respect to a proprietary institution of higher education beginning with the 2022 institutional fiscal year.

(c) CONFORMING AMENDMENTS.—Section 487(d) of the Higher Education Act of 1965 (20 U.S.C. 1094(d)) is amended—

(1) in the subsection heading, by striking “NON TITLE IV” and inserting “FEDERAL EDUCATIONAL ASSISTANCE”; and

(2) in paragraph (1)—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraph (F) as subparagraph (E).
SEC. 3. ADMINISTRATION AND ELIGIBILITY REQUIREMENTS.

Section 487(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1094(d)(2)) is amended—

(1) in subparagraph (A), by adding at the end the following: “The provisions of this subparagraph shall apply only until the beginning of the 2022 institutional fiscal year.”;

(2) in subparagraph (B), by striking “In addition” and inserting “Until the beginning of the 2022 institutional fiscal year, in addition”;

(3) by adding at the end the following:

“(C) BEGINNING WITH THE 2022 INSTITUTIONAL FISCAL YEAR.—

“(i) IN GENERAL.—Notwithstanding any other provision of this section, beginning with the 2022 institutional fiscal year, a proprietary institution of higher education that fails to meet the requirement of subsection (a)(24) shall be subject to the following:

“(I) If the failure to meet the requirement of subsection (a)(24) is in a year that is immediately subsequent to a year in which the institution met the requirement of subsection (a)(24),
no Federal educational assistance shall be paid by the Department of Veterans Affairs or the Department of Defense—

“(aa) to the institution for new enrollments; or

“(bb) on behalf of a student or to a student to be used to attend the institution if the student is a new student.

“(II) If the failure to meet the requirement of subsection (a)(24) is the second consecutive failure—

“(aa) no Federal educational assistance shall be paid by the Department of Veterans Affairs or the Department of Defense—

“(AA) to the institution for new enrollments; or

“(BB) on behalf of a student or to a student to be used to attend the institution if the student is a new student; and
“(bb) no Federal educational assistance shall be paid to the institution or on behalf of a student or to a student to be used to attend the institution unless the enrollment total at the institution for the academic year that is subsequent to the year of the second consecutive failure is equal to or less than the enrollment total of the previous academic year.

“(III) If the failure to meet the requirement of subsection (a)(24) is the third consecutive failure, the institution shall be ineligible to participate in or receive funds under any program of Federal educational assistance for a period of not less than two institutional fiscal years.

“(ii) REGAINING ELIGIBILITY.—For a proprietary institution of higher education to regain eligibility to participate in or receive funds after being ineligible pursuant to a failure to meet a requirement as de-
scribed in clause (i), the Secretary shall certify that the institution has demonstrated compliance with all eligibility and certification requirements for the program.

“(iii) Appeal for relief from sanctions.—

“(I) Submission of appeal.—

“(aa) In general.—A proprietary institution of higher education described in item (bb) that fails to meet the requirement of subsection (a)(24) for an institutional fiscal year may submit an appeal to the Secretary to remain eligible to participate in or receive funds under any program of Federal educational assistance for the institutional fiscal year. In order to regain eligibility to participate in or receive funds under any program of Federal educational assistance for the succeeding institutional fiscal year, the proprietary institution
of higher education shall demonstrate compliance as described in clause (ii).

“(bb) ELIGIBILITY TO APPEAL.—In order to be eligible to submit an appeal under item (aa), proprietary institution of education shall derive not less than 10 percent of such institution’s revenues from sources other than funds provided under this title.

“(II) 90/10 COMPLIANCE PLAN.—In the appeal under subclause (I), a proprietary institution of higher education shall submit a plan explaining the reasons for failure to comply with the requirement of subsection (a)(24) and describing the steps the institution will take to comply moving forward, including descriptions of any partnerships proposed or existing on the date of the appeal between the institution and employers, as well as a description of the expected tuition
rates for the institution for the next 3 institutional fiscal years.

“(III) Determination of relief.—

“(aa) In general.—Not later than 30 days after the date the Secretary receives an appeal submitted under subclause (I), the Secretary shall determine whether the appeal should be granted. Such determination shall be based only on the institution meeting all of the following conditions:

“(AA) The institution has had no final adverse action taken by the institution’s accrediting agency or association in the 5-year period preceding the date of the determination.

“(BB) The institution has not been found to be in violation or noncompliance with any provision in this
title in the 5-year period preceding the date of the determination.

“(CC) The institution has not been found to be in violation or noncompliance with the Department of Defense Voluntary Education Partnership Memorandum of Understanding (MOU) in the 5-year period preceding the date of the determination.

“(DD) The institution has not been found by the Department of Veterans Affairs or the relevant State approving agency to be in violation or noncompliance with the Principles of Excellence program established under Executive Order 13607 (77 Fed. Reg. 25861; relating to establishing principles of excellence for edu-
cational institutions serving
service members, veterans,
spouses, and other family
members) in the 5-year pe-
period preceding the date of
the determination.

“(EE) The institution
has not been found in a final
order by the Federal Trade
Commission to have engaged
in unfair or deceptive acts or
practices in the 5-year pe-
period preceding the date of
the determination.

“(FF) The institution
offers high-quality academic
or job-training programs,
and positions veterans and
service members after grad-
uation for success in the
workforce.

“(bb) LIMITATION ON AP-
PEALS; NONCOMPLIANCE.—

“(AA) IN GENERAL.—A
proprietary institution of
higher education may submit not more than 3 consecutive appeals and not more than 5 appeals in 10 years under subclause (I).

“(BB) COMPLIANCE.—

If the Secretary grants an appeal under this clause and subsequently determines that the proprietary institution of higher education is not in compliance with the plan described in subclause (II), the Secretary shall impose the sanction for which the appeal was granted. If the Secretary grants consecutive appeals under this clause and subsequently determines that the proprietary institution of higher education is not in compliance with the plan described in subclause (II), the Secretary shall impose the cu-
cumulative sanctions for the consecutive years for which the appeals were granted.

“(IV) Submission to VA, DOD, SAA, Accrediting Agency or Association, and Congress.—The Secretary shall submit a copy of each determination under subclause (III) to the Secretary of Veterans Affairs, the Secretary of Defense, the relevant State approving agency, the relevant accrediting agency or association, and the authorizing committees.

“(iv) Additional Enforcement.—In addition to such other means of enforcing the requirements of this subparagraph as may be available to the Secretary, if a proprietary institution of higher education fails to meet a requirement of subsection (a)(24) for any institutional fiscal year, then the institution’s eligibility to participate in the programs authorized by this title becomes provisional for the two institutional fiscal years after the institutional fiscal year in which the institution failed to
meet the requirement of subsection (a)(24), except that such provisional eligibility shall terminate—

“(I) on the expiration date of the institution’s program participation agreement under this subsection that is in effect on the date the Secretary determines that the institution failed to meet the requirement of subsection (a)(24); or

“(II) in the case that the Secretary determines that the institution failed to meet a requirement of subsection (a)(24) for three consecutive institutional fiscal years, on the date the institution is determined ineligible in accordance with this subparagraph.

“(v) FEDERAL EDUCATIONAL ASSISTANCE.—In this subparagraph, the term ‘Federal educational assistance’ has the meaning given the term in subsection (a)(24)(B).”.
SEC. 4. UPDATING 90/10 DISCLOSURE AND DATA REPORTING REQUIREMENTS.

Section 487(d) of the Higher Education Act of 1965 (20 U.S.C. 1094(d)) is amended by striking paragraphs (3) and (4) and inserting the following:

“(3) Publication on websites.—

“(A) Publication on College Navigator website.—The Secretary shall publicly disclose on the College Navigator, or its successor, website—

“(i) the name of any proprietary institution of higher education that fails to meet the requirement of subsection (a)(24); and

“(ii) the applicable sanction on such institution that failed to meet such requirement.

“(B) Publication on GI Bill Comparison Tool website.—The Secretary of Veterans Affairs shall—

“(i) publicly disclose on the GI Bill Comparison Tool, or its successor, website the name of any proprietary institution of higher education that fails to meet the requirement of subsection (a)(24);
“(ii) publicly disclose the applicable sanction on such institution that failed to meet such requirement, and include a caution flag with such disclosure; and

“(iii) remove a caution flag included under clause (ii) after the Secretary of Education certifies that such institution has demonstrated compliance with the eligibility requirements of subsection (a)(24).

“(4) REPORT TO CONGRESS.—Not later than July 1, 2020, and July 1 of each succeeding year, the Secretary shall submit to the authorizing committees a report that contains, for each proprietary institution of higher education that receives Federal educational assistance (as defined in subsection (a)(24)(B)), as provided in the audited financial statements submitted to the Secretary by each institution pursuant to the requirements of subsection (a)(24)—

“(A) the amount and percentage of such institution’s revenues received from Federal educational assistance (as defined in subsection (a)(24)(B)), disaggregated by the source of the assistance; and
“(B) the amount and percentage of such institution’s revenues received from other sources.”.

SEC. 5. CONVERSIONS TO NONPROFIT OR PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

Section 498(i) of the Higher Education Act of 1965 (20 U.S.C. 1099c(i)) is amended by adding at the end the following:

“(5) Notwithstanding any other provision of this Act, in the case of a proprietary institution of higher education approved for conversion to a nonprofit or public institution of higher education, such institution shall be subject to the requirement provided under section 487(a)(24), for the 2-year period after the date of conversion.”.

SEC. 6. NOTIFICATION.

Not later than 90 days after the date of enactment of this Act, the Secretary of Education shall notify, in writing, proprietary institutions of higher education of the new requirements provided under the amendments made by this Act.