

114TH CONGRESS
1ST SESSION

S. 1908

To amend the Higher Education Opportunity Act to restrict institutions of higher education from using revenues derived from Federal educational assistance funds for advertising, marketing, or recruiting purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2015

Mr. BROWN (for himself, Mr. DURBIN, Mr. FRANKEN, Mr. CARPER, Mr. BLUMENTHAL, and Mr. MURPHY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Higher Education Opportunity Act to restrict institutions of higher education from using revenues derived from Federal educational assistance funds for advertising, marketing, or recruiting 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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Protecting Financial Aid for Students and Taxpayers
6 Act”.

7 (b) FINDINGS.—Congress finds the following:

1 (1) From 1998 to 2013, enrollment in for-profit
2 institutions of higher education increased by 314
3 percent, from 498,176 students to 2,064,920 stu-
4 dents.

5 (2) In the 2012–2013 academic year, students
6 who enrolled at for-profit institutions of higher edu-
7 cation received \$26,469,028,523 in Federal Pell
8 Grants and student loans.

9 (3) Eight out of the 10 top recipients of Post-
10 9/11 Educational Assistance funds are for-profit in-
11 stitutions of higher education. These 8 companies
12 have received \$2,900,000,000 in taxpayer funds to
13 enroll veterans from 2009 to 2013.

14 (4) An analysis of 15 publicly traded companies
15 that operate institutions of higher education shows
16 that, on average, such companies spend 28 percent
17 of expenditures on advertising, marketing, and re-
18 cruiting.

19 **SEC. 2. RESTRICTIONS ON SOURCES OF FUNDS FOR RE-**
20 **CRUITING AND MARKETING ACTIVITIES.**

21 Section 119 of the Higher Education Opportunity
22 Act (20 U.S.C. 1011m) is amended—

23 (1) in the section heading, by inserting “**AND**
24 **RESTRICTIONS ON SOURCES OF FUNDS FOR**

1 **RECRUITING AND MARKETING ACTIVITIES”**
2 after “**FUNDS**”;

3 (2) in subsection (d), by striking “subsections
4 (a) through (c)” and inserting “subsections (a), (b),
5 (c), and (e)”;

6 (3) by redesignating subsection (e) as sub-
7 section (f); and

8 (4) by inserting after subsection (d) the fol-
9 lowing:

10 “(e) **RESTRICTIONS ON SOURCES OF FUNDS FOR RE-**
11 **CRUITING AND MARKETING ACTIVITIES.—**

12 “(1) **IN GENERAL.—**An institution of higher
13 education, or other postsecondary educational insti-
14 tution, may not use revenues derived from Federal
15 educational assistance funds for recruiting or mar-
16 keting activities described in paragraph (2).

17 “(2) **COVERED ACTIVITIES.—**Except as pro-
18 vided in paragraph (3), the recruiting and marketing
19 activities subject to paragraph (1) shall include the
20 following:

21 “(A) Advertising and promotion activities,
22 including paid announcements in newspapers,
23 magazines, radio, television, billboards, elec-
24 tronic media, naming rights, or any other public
25 medium of communication, including paying for

1 displays or promotions at job fairs, military in-
2 stallations, or college recruiting events.

3 “(B) Efforts to identify and attract pro-
4 spective students, either directly or through a
5 contractor or other third party, including con-
6 tact concerning a prospective student’s potential
7 enrollment or application for grant, loan, or
8 work assistance under title IV of the Higher
9 Education Act of 1965 (20 U.S.C. 1070 et
10 seq.) or participation in preadmission or advis-
11 ing activities, including—

12 “(i) paying employees responsible for
13 overseeing enrollment and for contacting
14 potential students in-person, by phone, by
15 email, or by other Internet communications
16 regarding enrollment; and

17 “(ii) soliciting an individual to provide
18 contact information to an institution of
19 higher education, including websites estab-
20 lished for such purpose and funds paid to
21 third parties for such purpose.

22 “(C) Such other activities as the Secretary
23 of Education may prescribe, including paying
24 for promotion or sponsorship of education or
25 military-related associations.

1 “(3) EXCEPTIONS.—Any activity that is re-
2 quired as a condition of receipt of funds by an insti-
3 tution under title IV of the Higher Education Act of
4 1965 (20 U.S.C. 1070 et seq.), is specifically author-
5 ized under such title, or is otherwise specified by the
6 Secretary of Education, shall not be considered to be
7 a covered activity under paragraph (2).

8 “(4) FEDERAL EDUCATIONAL ASSISTANCE
9 FUNDS.—In this subsection, the term ‘Federal edu-
10 cational assistance funds’ means funds provided di-
11 rectly to an institution or to a student attending
12 such institution under any of the following provi-
13 sions of law:

14 “(A) Title IV of the Higher Education Act
15 of 1965 (20 U.S.C. 1070 et seq.).

16 “(B) Chapter 30, 31, 32, 33, 34, or 35 of
17 title 38, United States Code.

18 “(C) Chapter 101, 105, 106A, 1606, 1607,
19 or 1608 of title 10, United States Code.

20 “(D) Section 1784a, 2005, or 2007 of title
21 10, United States Code.

22 “(E) Title I of the Workforce Innovation
23 and Opportunity Act (29 U.S.C. 3111 et seq.).

24 “(F) The Adult Education and Family Lit-
25 eracy Act (29 U.S.C. 3271 et seq.).

1 “(5) RULE OF CONSTRUCTION.—Nothing in
2 this section shall be construed as a limitation on the
3 use by an institution of revenues derived from
4 sources other than Federal educational assistance
5 funds.

6 “(6) REPORTS.—Each institution of higher
7 education, or other postsecondary educational insti-
8 tution, that derives 65 percent or more of revenues
9 from Federal educational assistance funds shall re-
10 port annually to the Secretary and to Congress and
11 shall include in such report—

12 “(A) the institution’s expenditures on ad-
13 vertising, marketing, and recruiting;

14 “(B) a verification from an independent
15 auditor that the institution is in compliance
16 with the requirements of this subsection; and

17 “(C) a certification from the institution
18 that the institution is in compliance with the re-
19 quirements of this subsection.”.

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