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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

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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.

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Protecting Financial Aid for Students and Taxpayers Act".

(b) FINDINGS.—Congress finds the following:

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

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

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

(4) An analysis of 15 publicly traded companies that operate institutions of higher education shows that, on average, such companies spend 28 percent of expenditures on advertising, marketing, and recruiting.

SEC. 2. RESTRICTIONS ON SOURCES OF FUNDS FOR RECRUITING AND MARKETING ACTIVITIES.

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

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

RECRUITING AND MARKETING ACTIVITIES'' after ''**FUNDS**'';

(2) in subsection (d), by striking ''subsections (a) through (c)'' and inserting ''subsections (a), (b), (c), and (e)'';

(3) by redesignating subsection (e) as subsection (f); and

(4) by inserting after subsection (d) the following:

''(e) RESTRICTIONS ON SOURCES OF FUNDS FOR RECRUITING AND MARKETING ACTIVITIES.—

''(1) IN GENERAL.—An institution of higher education, or other postsecondary educational institution, may not use revenues derived from Federal educational assistance funds for recruiting or marketing activities described in paragraph (2).

''(2) COVERED ACTIVITIES.—Except as provided in paragraph (3), the recruiting and marketing activities subject to paragraph (1) shall include the following:

''(A) Advertising and promotion activities, including paid announcements in newspapers, magazines, radio, television, billboards, electronic media, naming rights, or any other public medium of communication, including paying for

displays or promotions at job fairs, military installations, or college recruiting events.

"(B) Efforts to identify and attract prospective students, either directly or through a contractor or other third party, including contact concerning a prospective student's potential enrollment or application for grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) or participation in preadmission or advising activities, including—

"(i) paying employees responsible for overseeing enrollment and for contacting potential students in-person, by phone, by email, or by other Internet communications regarding enrollment; and

"(ii) soliciting an individual to provide contact information to an institution of higher education, including websites established for such purpose and funds paid to third parties for such purpose.

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

"(3) EXCEPTIONS.—Any activity that is required as a condition of receipt of funds by an institution under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), is specifically authorized under such title, or is otherwise specified by the Secretary of Education, shall not be considered to be a covered activity under paragraph (2).

"(4) FEDERAL EDUCATIONAL ASSISTANCE FUNDS.—In this subsection, the term 'Federal educational assistance funds' means funds provided directly to an institution or to a student attending such institution under any of the following provisions of law:

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

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

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

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

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

"(F) The Adult Education and Family Literacy Act (29 U.S.C. 3271 et seq.).

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

"(6) REPORTS.—Each institution of higher education, or other postsecondary educational institution, that derives 65 percent or more of revenues from Federal educational assistance funds shall report annually to the Secretary and to Congress and shall include in such report—

"(A) the institution's expenditures on advertising, marketing, and recruiting;

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

"(C) a certification from the institution that the institution is in compliance with the requirements of this subsection.".

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