IN THE SENATE OF THE UNITED STATES

November 13, 2019

Received; read twice and referred to the Committee on Veterans’ Affairs

AN ACT

To amend title 38, United States Code, to require that educational institutions abide by certain principles as a condition of approval for purposes of the educational assistance programs of the Department of Veterans Affairs, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Protect the GI Bill Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Clarification of educational assistance for individuals who pursue an approved program of education leading to a degree while on active duty.
Sec. 3. Verification of enrollment for purposes of receipt of Post-9/11 Educational Assistance benefits.
Sec. 4. Clarification regarding the dependents to whom entitlement to educational assistance may be transferred under the Post 9/11 Educational Assistance Program.
Sec. 5. Expansion of reasons for which a course of education may be disapproved.
Sec. 6. Oversight of educational institutions subject to Government action for purposes of the educational assistance programs of the Department of Veterans Affairs.
Sec. 7. Additional requirement for approval of educational institutions for purposes of the educational assistance programs of the Department of Veterans Affairs.
Sec. 8. Clarification of accreditation for law schools for purposes of the educational assistance programs of the Department of Veterans Affairs.
Sec. 9. Clarification of grounds for disapproval of a course for purposes of the educational assistance programs of the Department of Veterans Affairs.
Sec. 10. Requirements for educational institutions participating in the educational assistance programs of the Department of Veterans Affairs.
Sec. 11. Overpayments to eligible persons or veterans.
Sec. 12. Improvements to limitation on certain advertising, sales, and enrollment practices.
Sec. 13. Additional limitation on certain advertising, sales, and enrollment practices of educational institutions.
Sec. 14. Charge to entitlement to educational assistance for individuals who do not transfer credits from certain closed or disapproved programs of education.
Sec. 15. Determination of budgetary effects.
SEC. 2. CLARIFICATION OF EDUCATIONAL ASSISTANCE
FOR INDIVIDUALS WHO PURSUE AN AP-
PROVED PROGRAM OF EDUCATION LEADING
TO A DEGREE WHILE ON ACTIVE DUTY.

Section 3313(e) of title 38, United States Code, is
amended—

(1) in the heading, by inserting “FOR A PERIOD
OF MORE THAN 30 DAYS” after “ACTIVE DUTY”;
(2) in paragraph (1), by inserting “for a period
of more than 30 days” after “active duty”; and
(3) in paragraph (2), in the matter preceding
subparagraph (A), by inserting “for a period of
more than 30 days” after “active duty”.

SEC. 3. VERIFICATION OF ENROLLMENT FOR PURPOSES OF
RECEIPT OF POST-9/11 EDUCATIONAL ASSIST-
ANCE BENEFITS.

(a) In General.—Section 3313 of title 38, United
States Code, as amended by section 2, is further amended
by adding at the end the following new subsection:
“(l) VERIFICATION OF ENROLLMENT.—(1) The Sec-
retary shall require—
“(A) each educational institution to submit to
the Secretary verification of each individual who is
enrolled in a course or program of education at the
educational institution and is receiving educational
assistance under this chapter for each month during
which the individual is so enrolled and receiving such
educational assistance; and

“(B) each individual who is enrolled in a course
or program of education and is receiving educational
assistance under this chapter to submit to the Sec-
retary verification of such enrollment for each month
during which the individual is so enrolled and receiv-
ing such educational assistance.

“(2) Verification under this subsection shall be in an
electronic form prescribed by the Secretary.

“(3) If an individual fails to submit the verification
required under paragraph (1)(B) for two consecutive
months, the Secretary may not make a monthly stipend
payment to the individual under this section until the indi-
vidual submits such verification.”.

(b) EFFECTIVE DATE.—The amendment made by
subsection (a) shall take effect on August 1, 2020.

SEC. 4. CLARIFICATION REGARDING THE DEPENDENTS TO
WHOM ENTITLEMENT TO EDUCATIONAL AS-
STANCE MAY BE TRANSFERRED UNDER
THE POST 9/11 EDUCATIONAL ASSISTANCE
PROGRAM.

(a) IN GENERAL.—Section 3319(e) of title 38,
United States Code, is amended to read as follows:

“(c) ELIGIBLE DEPENDENTS.—
“(1) TRANSFER.—An individual approved to transfer an entitlement to educational assistance under this section may transfer the individual’s entitlement to an eligible dependent or a combination of eligible dependents.

“(2) DEFINITION OF ELIGIBLE DEPENDENT.—

For purposes of this subsection, the term ‘eligible dependent’ has the meaning given the term ‘dependent’ under paragraph (2) of section 1072 of title 10.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to educational assistance payable under chapter 33 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

SEC. 5. EXPANSION OF REASONS FOR WHICH A COURSE OF EDUCATION MAY BE DISAPPROVED.

(a) IN GENERAL.—Section 3672(b)(2) of title 38, United States Code, is amended—

(1) in subparagraph (A)(i), by inserting or “or (D)” after “subparagraph (C)”; and

(2) by adding at the end the following new sub-

paragraph:

“(D) A program that is described in subparagraph (A)(i) of this paragraph and offered by an educational in-
stitution that is at risk of losing accreditation shall not be deemed to be approved for purposes of this chapter. For purposes of this subparagraph, an educational institution is at risk of losing accreditation if that educational institution has received from the relevant accrediting agency or association a notice described in section 3673(c)(2)(D) of this title.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 6. OVERSIGHT OF EDUCATIONAL INSTITUTIONS SUBJECT TO GOVERNMENT ACTION FOR PURPOSES OF THE EDUCATIONAL ASSISTANCE PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) In General.—Section 3673 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(e) Notice of Government Action.—(1)(A) If the Secretary receives notice under paragraph (2), or otherwise becomes aware of an action or event described in paragraph (3), with respect to an educational institution, the Secretary shall transmit such notice or provide notice of such action or event to the State approving agency for the State where the educational institution is located by
not later than 30 days after the date on which the Secretary receives such notice or becomes aware of such action or event. A State approving agency shall perform a risk-based oversight survey to the educational institution by not later than 60 days after receiving notice under this subparagraph.

“(B) If a State approving agency receives notice as described in paragraph (2), or otherwise becomes aware of an action or event described in paragraph (3), with respect to an educational institution, the State approving agency shall perform a risk-based oversight survey to the educational institution by not later than 60 days after receiving such notice or otherwise becoming aware of such action or event.

“(2) Notice under this paragraph is any of the following:

“(A) Notice from the Secretary of Education of an event under paragraph (3)(A).

“(B) Notice of an event under paragraph (3)(B).

“(C) Notice from a State of an action taken by that State under paragraph (3)(C).

“(D) Notice provided by an accrediting agency or association of an action described in paragraph (3)(D) taken by that agency or association.
“(E) Notice that the Secretary of Education has placed the educational institution on provisional status.

“(3) An action or event under this paragraph is any of the following:

“(A) The receipt by an educational institution of payments under the heightened cash monitoring payment method pursuant to section 487(c)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1094).

“(B) Final punitive action taken by the Attorney General, the Federal Trade Commission, or any other Federal department or agency against an educational institution relating to misconduct or misleading marketing practices, as defined by the Secretary of Veterans Affairs.

“(C) Final punitive action taken by a State against an educational institution.

“(D) The loss, or risk of loss, by an educational institution of an accreditation from an accrediting agency or association, including notice of probation, suspension, an order to show cause, or revocation of accreditation.
“(E) The placement of an educational institution on provisional status by the Secretary of Education.

“(4) If a State approving agency disapproves or suspends an educational institution, the State approving agency shall provide notice of such disapproval or suspension to the Secretary and to the other State approving agencies.

“(5) This subsection shall be carried out using amounts made available pursuant to section 3674(a)(4) of this title as long as such amounts remain available.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on August 1, 2020.

SEC. 7. ADDITIONAL REQUIREMENT FOR APPROVAL OF EDUCATIONAL INSTITUTIONS FOR PURPOSES OF THE EDUCATIONAL ASSISTANCE PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) In General.—Section 3675 of title 38, United States Code, is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

“(4) The educational institution is approved and participates in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et
seq.) or the Secretary has waived the requirement under this paragraph with respect to an educational institution and submits to the Committees on Veterans’ Affairs of the Senate and House of Representatives notice of such waiver.”.

(2) by adding at the end the following new subsection:

“(d) The Secretary shall submit to Congress an annual report on any waivers issued pursuant to subsection (b)(4) or section 3672(b)(2)(A)(i) of this title. Each such report shall include, for the year covered by the report—

“(1) the name of each educational institution for which a waiver was issued;

“(2) the justification for each such waiver; and

“(3) the total number of waivers issued.”.

(b) REQUIREMENT FOR APPROVAL OF STANDARD COLLEGE DEGREE PROGRAMS.—Clause (i) of subparagraph (A) of paragraph (2) of subsection (b) of section 3672 of such title is amended to read as follows:

“(i) Except as provided in subparagraph (C) or (D), an accredited standard college degree program offered at a public or not-for-profit proprietary educational institution that—
“(I) is accredited by an agency or association recognized for that purpose by the Secretary of Education; and

“(II) is approved and participates in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), unless the Secretary has waived the requirement to participate in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).”.

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on August 1, 2020.

SEC. 8. CLARIFICATION OF ACCREDITATION FOR LAW SCHOOLS FOR PURPOSES OF THE EDUCATIONAL ASSISTANCE PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) In General.—Paragraphs (14)(B) and (15)(B) of section 3676(c) of title 38, United States Code, are each amended by striking “an accrediting agency” both places it appears and inserting “a specialized accrediting agency”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect on August 1, 2020.
SEC. 9. CLARIFICATION OF GROUNDS FOR DISAPPROVAL

OF A COURSE FOR PURPOSES OF THE EDUCATIONAL ASSISTANCE PROGRAMS OF THE

DEPARTMENT OF VETERANS AFFAIRS.

(a) In General.—Section 3679(a)(1) of title 38, United States Code, is amended by inserting “(including failure to comply with a risk-based survey under section 3673(d) of this title and secure an affirmation of approval by the appropriate State approving agency following the survey)” after “requirements of this chapter”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on August 1, 2020.

SEC. 10. REQUIREMENTS FOR EDUCATIONAL INSTITUTIONS

PARTICIPATING IN THE EDUCATIONAL ASSISTANCE PROGRAMS OF THE DEPARTMENT

OF VETERANS AFFAIRS.

(a) In General.—Section 3679 of title 38, United States Code, as amended by section 6, is further amended by adding at the end the following new subsection:

“(f)(1) Except as provided by paragraph (5), a State approving agency, or the Secretary when acting in the role of the State approving agency, may take an action described in paragraph (4)(A) if the State approving agency or the Secretary determines that an educational institution does not perform any of the following:

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“(A) Prior to the enrollment of a covered individual in a course of education at the educational institution, provide the individual with a form that contains information personalized to the individual that describes—

“(i) the estimated total cost of the course, including tuition, fees, books, supplies, and any other additional costs;

“(ii) an estimate of the cost for living expenses for students enrolled in the course;

“(iii) the amount of the costs under clauses (i) and (ii) that are covered by the educational assistance provided to the individual under chapter 30, 32, 33, or 35 of this title, or chapter 1606 or 1607 of title 10, as the case may be;

“(iv) the type and amount of Federal financial aid not administered by the Secretary and financial aid offered by the institution that the individual may qualify to receive;

“(v) an estimate of the amount of student loan debt the individual would have upon graduation;

“(vi) information regarding graduation rates;
“(vii) job-placement rates for graduates of
the course, if available;

“(viii) information regarding the accept-
ance by the institution of transfer of credits, in-
cluding military credits;

“(ix) any conditions or additional require-
ments, including training, experience, or exami-
nations, required to obtain the license, certifi-
cation, or approval for which the course of edu-
cation is designed to provide preparation; and

“(x) other information to facilitate com-
parison by the individual of aid packages of-
fered by different educational institutions.

“(B) Not later than 15 days after the date on
which the institution (or the governing body of the
institution) determines tuition rates and fees for an
academic year that is different than the amount
being charged by the institution, provide a covered
individual enrolled in a course of education at the
educational institution with the form under subpara-
graph (A) that contains updated information.

“(C) Maintain policies to—

“(i) inform each covered individual enrolled
in a course of education at the educational in-
stitution of the availability of Federal financial
aid not administered by the Secretary and financial aid offered by the institution; and

“(ii) alert such individual of the potential eligibility of the individual for such financial aid before packaging or arranging student loans or alternative financing programs for the individual.

“(D) Maintain policies to—

“(i) prohibit the automatic renewal of a covered individual in courses and programs of education; and

“(ii) ensure that each covered individual approves of the enrollment of the individual in a course.

“(E) Provide to a covered individual enrolled in a course of education at the educational institution with information regarding the requirements to graduate from such course, including information regarding when required classes will be offered and a timeline to graduate.

“(F) With respect to an accredited educational institution, obtain the approval of the accrediting agency for each new course or program of the institution before enrolling covered individuals in such courses or programs if the accrediting agency deter-
mines that such approval is appropriate under the substantive change requirements of the accrediting agency regarding the quality, objectives, scope, or control of the institution.

“(G) Maintain a policy that—

“(i) ensures that members of the Armed Forces, including the reserve components and the National Guard, who enroll in a course of education at the educational institution may be readmitted at such institution if such members are temporarily unavailable or have to suspend such enrollment by reason of serving in the Armed Forces; and

“(ii) otherwise accommodates such members during short absences by reason of such service.

“(H) Designate an employee of the educational institution to serve as a point of contact for covered individuals and the family of such individuals needing assistance with respect to academic counseling, financial counseling, disability counseling, and other information regarding completing a course of education at such institution, including by referring such individuals and family to the appropriate persons for such counseling and information.
“(2) Except as provided by paragraph (5), a State approving agency, or the Secretary when acting in the role of the State approving agency, may take an action described in paragraph (4)(A) if the State approving agency, the Secretary, or the Federal Trade Commission, determines that an educational institution does any of the following:

“(A) Carries out deceptive or persistent recruiting techniques, including on military installations, that may include—

“(i) misrepresentation (as defined in section 3696(e)(2)(B) of this title) or payment of incentive compensation;

“(ii) during any 1-month period making three or more unsolicited contacts to a covered individual, including contacts by phone, email, or in-person; or

“(iii) engaging in same-day recruitment and registration.

“(B) Pays inducements, including any gratuity, favor, discount, entertainment, hospitality, loan, transportation, lodging, meals, or other item having a monetary value of more than a de minimis amount, to any individual or entity, or its agents including third party lead generators or marketing
firms other than salaries paid to employees or fees paid to contractors in conformity with all applicable laws for the purpose of securing enrollments of covered individuals or obtaining access to educational assistance under this title, with the exception of scholarships, grants, and tuition reductions provided by the educational institution.

“(3) A State approving agency, or the Secretary when acting in the role of the State approving agency, may take an action described in paragraph (4)(A) if the State approving agency or the Secretary determines that an educational institution is the subject of a negative action made by the accrediting agency that accredits the institution, including any of the following:

“(A) A show cause order.

“(B) Accréditor sanctions.

“(C) Accreditation probation.

“(D) The loss of accreditation or candidacy for accreditation.

“(4)(A) An action described in this subparagraph is any of the following:

“(i) Publishing a warning on the internet website of the Department described in section 3698(c)(2) of this title, or such other similar internet website of the Department, that describes how
an educational institution is failing to meet a re-
quirement under paragraph (1) or (2).

“(ii) Prohibiting the pursuit by an individual of
a course of education at an educational institution
under chapter 30, 32, 33, or 35 of this title during
the period beginning on the date of such prohibition
and ending on a date specified by the State approv-
ing agency, in consultation with the Secretary, or
the Secretary when acting in the role of the State
approving agency, unless the individual was enrolled
at the institution before such period.

“(B) The Secretary shall establish guidelines to en-
sure that the actions described in subparagraph (A) are
applied in a proportional and uniform manner by State
approving agencies, or the Secretary when acting in the
role of the State approving agency.

“(5)(A) The Secretary may waive the requirements
of paragraph (1) or waive the requirements of paragraph
(2) with respect to an educational institution for a 1-acad-
emic-year period beginning in August of the year in
which the waiver is made. A single educational institution
may not receive waivers under this paragraph for more
than 2 consecutive academic years.

“(B) To be considered for a waiver under this para-
graph, an educational institution shall submit to the Sec-
retary an application prior to the first day of the academic
year for which the waiver is sought.

“(6) On an annual basis, the Secretary shall submit
to the Committees on Veterans’ Affairs of the House of
Representatives and the Senate the following reports:

“(A) A report, which shall be made publicly
available, that includes the following:

“(i) A summary of each action described in
paragraph (4)(A) made during the year covered
by the report, including—

“(I) the name of the educational insti-
tution;

“(II) the type of action taken;

“(III) the rationale for the action, in-
cluding how the educational institution was
not in compliance with this subsection;

“(IV) the length of time that the edu-
cational institution was not in such compli-
ance; and

“(V) whether the educational institu-
tion was also not in compliance with this
subsection during any of the 2 years prior
to the year covered by the report.

“(ii) A summary and justifications for the
waivers made under paragraph (5) during the
year covered by the report, including the total number of waivers each educational institution has received.

“(B) A report containing the recommendations of the Secretary with respect to any legislative actions the Secretary determines appropriate to ensure that this subsection is carried out in a manner that is consistent with the requirements that educational institutions must meet for purposes of other departments or agencies of the Federal Government.

“(7) In this subsection, the term ‘covered individual’ means an individual who is pursuing a course of education at an educational institution under chapter 30, 32, 33, or 35 of this title.”.

(b) Application Date.—The amendment made by this section shall take effect on June 15, 2020, and shall apply to an educational institution beginning on August 1, 2020, except that an educational institution may submit an application for a waiver under subsection (f)(5) of section 3679 of title 38, United States Code, as added by subsection (a), beginning on June 15, 2020.

SEC. 11. OVERPAYMENTS TO ELIGIBLE PERSONS OR VETERANS.

Subsection (b) of section 3685 of title 38, United States Code, is amended to read as follows:
“(b) Any overpayment by an educational institution to a veteran or eligible person shall constitute a liability of the educational institution to the United States if—

“(1) the Secretary finds that the overpayment has been made as the result of—

“(A) the willful or negligent failure of an educational institution to report, as required under this chapter or chapter 34 or 35 of this title, to the Department of Veterans Affairs excessive absences from a course, or discontinuance or interruption of a course by the veteran or eligible person; or

“(B) the willful or negligent false certification by an educational institution; or

“(2) the payment is made pursuant to—

“(A) section 3313(h) of this title;

“(B) section 3317 of this title; or

“(C) section 3680(d) of this title.”.

SEC. 12. IMPROVEMENTS TO LIMITATION ON CERTAIN ADVERTISING, SALES, AND ENROLLMENT PRACTICES.

(a) SUBSTANTIAL MISREPRESENTATION.—

(1) IN GENERAL.—Subsection (a) of section 3696 of title 38, United States Code, is amended to read as follows:

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“(a) The Secretary, or a State approving agency acting in the role of the Secretary, shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an institution, or by an entity that owns the institution, engaged in substantial misrepresentation described in subsection (e)(1).”.

(2) DEFINITIONS.—Such section is further amended by adding at the end the following new subsection:

“(e)(1) Substantial misrepresentation described in this paragraph is substantial misrepresentation by an educational institution, a representative of the institution, or any person with whom the institution has an agreement to provide educational programs, marketing, advertising, recruiting or admissions services, concerning any of the following:

“(A) The nature of the educational program of the institution, including misrepresentation regarding—

“(i) the particular type, specific source, or nature and extent, of the accreditation of the institution or a course of education at the institution;

“(ii) whether a student may transfer course credits to another institution;
“(iii) conditions under which the institution will accept transfer credits earned at another institution;

“(iv) whether successful completion of a course of instruction qualifies a student—

“(I) for acceptance to a labor union or similar organization; or

“(II) to receive, to apply to take, or to take an examination required to receive a local, State, or Federal license, or a non-governmental certification required as a precondition for employment, or to perform certain functions in the States in which the educational program is offered, or to meet additional conditions that the institution knows or reasonably should know are generally needed to secure employment in a recognized occupation for which the program is represented to prepare students;

“(v) the requirements for successfully completing the course of study or program and the circumstances that would constitute grounds for terminating the student’s enrollment;

“(vi) whether the courses of education at the institution are recommended or have been

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the subject of unsolicited testimonials or endorsements by—

“(I) vocational counselors, high schools, colleges, educational organizations, employment agencies, members of a particular industry, students, former students, or others; or

“(II) officials of a local or State government or the Federal Government;

“(vii) the size, location, facilities, or equipment of the institution;

“(viii) the availability, frequency, and appropriateness of the courses of education and programs to the employment objectives that the institution states the courses and programs are designed to meet;

“(ix) the nature, age, and availability of the training devices or equipment of the institution and the appropriateness to the employment objectives that the institution states the courses and programs are designed to meet;

“(x) the number, availability, and qualifications, including the training and experience, of the faculty and other personnel of the institution;
“(xi) the availability of part-time employment or other forms of financial assistance;

“(xii) the nature and availability of any tutorial or specialized instruction, guidance and counseling, or other supplementary assistance the institution ill provide students before, during, or after the completion of a course of education;

“(xiii) the nature or extent of any pre-requisites established for enrollment in any course of education;

“(xiv) the subject matter, content of the course of education, or any other fact related to the degree, diploma, certificate of completion, or any similar document that the student is to be, or is, awarded upon completion of the course of education; and

“(xv) whether the degree that the institution will confer upon completion of the course of education has been authorized by the appropriate State educational agency, including with respect to cases where the institution fails to disclose facts regarding the lack of such authorization in any advertising or promotional materials that reference such degree.
“(B) The financial charges of the institution, including misrepresentation regarding—

“(i) offers of scholarships to pay all or part of a course charge;

“(ii) whether a particular charge is the customary charge at the institution for a course;

“(iii) the cost of the program and the refund policy of the institution if the student does not complete the program;

“(iv) the availability or nature of any financial assistance offered to students, including a student’s responsibility to repay any loans, regardless of whether the student is successful in completing the program and obtaining employment; and

“(v) the student’s right to reject any particular type of financial aid or other assistance, or whether the student must apply for a particular type of financial aid, such as financing offered by the institution.

“(C) The employability of the graduates of the institution, including misrepresentation regarding—

“(i) the relationship of the institution with any organization, employment agency, or other
agency providing authorized training leading directly to employment;

“(ii) the plans of the institution to maintain a placement service for graduates or otherwise assist graduates to obtain employment;

“(iii) the knowledge of the institution about the current or likely future conditions, compensation, or employment opportunities in the industry or occupation for which the students are being prepared;

“(iv) job market statistics maintained by the Federal Government in relation to the potential placement of the graduates of the institution; and

“(v) other requirements that are generally needed to be employed in the fields for which the training is provided, such as requirements related to commercial driving licenses or permits to carry firearms, and failing to disclose factors that would prevent an applicant from qualifying for such requirements, such as prior criminal records or preexisting medical conditions.

“(2) In this subsection:
“(A) The term ‘misleading statement’ includes any communication, action, omission, or intimation made in writing, visually, orally, or through other means, that has the likelihood or tendency to mislead the intended recipient of the communication under the circumstances in which the communication is made. Such term includes the use of student endorsements or testimonials for an educational institution that a student gives to the institution either under duress or because the institution required the student to make such an endorsement or testimonial to participate in a program of education.

“(B) The term ‘misrepresentation’ means any false, erroneous, or misleading statement, action, omission, or intimation made directly or indirectly to a student, a prospective student, the public, an accrediting agency, a State agency, or to the Secretary by an eligible institution, one of its representatives, or any person with whom the institution has an agreement to provide educational programs, marketing, advertising, recruiting or admissions services.

“(C) The term ‘substantial misrepresentation’ means misrepresentation in which the person to whom it was made could reasonably be expected to
rely, or has reasonably relied, to that person’s det-
riment.”.

(b) REFERRAL.—Subsection (c) of such section is
amended by striking the last sentence and inserting the
following: “The findings and results of any such investiga-
tions shall be referred to the State approving agency, or
the Secretary when acting in the role of the State approv-
ing agency, who shall take appropriate action in such cases
not later than 60 days after the date of such referral.”.

(c) REQUIREMENTS FOR NONACREDITED COURSES.—Paragraph (10) of section 3676(e) of such
title is amended to read as follows:

“(10) The institution, and any entity that owns
the institution, does not engage in substantial mis-
representation described in section 3696(e) of this
title. The institution shall not be deemed to have
met this requirement until the State approving agen-

cy—

“(A) has ascertained that no Federal de-
partment or agency has taken a punitive action,
not including a settlement agreement, against
the school for misleading or deceptive practices;

“(B) has, if such an order has been issued,
given due weight to that fact; and
“(C) has reviewed the complete record of advertising, sales, or enrollment materials (and copies thereof) used by or on behalf of the institution during the preceding 12-month period.”.

(d) APPLICATION DATE.—The amendments made by this section shall apply to an educational institution beginning on August 1, 2020.

SEC. 13. ADDITIONAL LIMITATION ON CERTAIN ADVERTISING, SALES, AND ENROLLMENT PRACTICES OF EDUCATIONAL INSTITUTIONS.

(a) IN GENERAL.—Section 3696(a) of title 38, United States Code, as amended by section 11, is further amended—

(1) by inserting “(1)” before “The Secretary”;

and

(2) by adding at the end the following new paragraph:

“(2) Not later than 120 days after a State or Federal department or agency takes final punitive action against an educational institution relating to practices described in paragraph (1), the Secretary or the relevant State approving agency may—

“(A) take an action described in subsection (f)(4)(A) of section 3679 of this title; or
“(B) disapprove under such section each course
offered by that educational institution.”.

(b) Effective Date.—The amendment made by
subsection (a) shall take effect on August 1, 2020.

SEC. 14. CHARGE TO ENTITLEMENT TO EDUCATIONAL AS-
SISTANCE FOR INDIVIDUALS WHO DO NOT
TRANSFER CREDITS FROM CERTAIN CLOSED
OR DISAPPROVED PROGRAMS OF EDU-
CATION.

(a) In General.—Subsection (c) of section 3699 of
title 38, United States Code, is amended to read as fol-
lows:

“(c) Period Not Charged.—(1) The period for
which, by reason of this subsection, educational assistance
is not charged against entitlement or counted toward the
applicable aggregate period under section 3695 of this title
shall not exceed the aggregate of—

“(A) the portion of the period of enrollment in
the course from which the individual did not receive
credit or with respect to which the individual lost
training time, as determined under subsection
(b)(2); and

“(B) the period by which a monthly stipend is
extended under section 3680(a)(2)(B) of this title.
“(2)(A) An individual described in subparagraph (B) who transfers fewer than 12 credits from a program of education that is closed or disapproved as described in subsection (b)(1) shall be deemed to be an individual who did not receive such credits, as described in subsection (b)(2), except that the period for which such individual’s entitlement is not charged shall be the entire period of the individual’s enrollment in the program of education.

In carrying out this subparagraph, the Secretary, in consultation with the Secretary of Education, shall establish procedures to determine whether the individual transferred credits to a comparable course or program of education.

“(B) An individual described in this subparagraph is an individual who is enrolled in a course or program of education closed or discontinued as described in subsection (b)(1) during the period beginning on the date that is 120 days before the date of such closure or discontinuance and ending on the date of such closure or discontinuance, as the case may be.

“(C) This paragraph shall apply with respect to a course or program of education closed or discontinued before September 30, 2023.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on August 1, 2020.
SEC. 15. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Passed the House of Representatives November 12, 2019.

Attest: CHERYL L. JOHNSON,

Clerk.