

116TH CONGRESS
1ST SESSION

H. R. 3369

To close the GI Bill loophole and update the 80/20 rule for proprietary institutions of higher education.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2019

Ms. SHALALA (for herself, Ms. WASSERMAN SCHULTZ, Mr. MOULTON, Mr. CISNEROS, Ms. HOULAHAN, Ms. MUCARSEL-POWELL, Mr. LUJÁN, and Ms. SHERRILL) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To close the GI Bill loophole and update the 80/20 rule for proprietary institutions of higher education.

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.**

4 This Act may be cited as the “Defending All Veterans
5 in Education Act” or the “DAVIE Act”.

1 **SEC. 2. CLOSING THE GI BILL LOOPHOLE AND UPDATING**
2 **THE 80/20 RULE FOR PROPRIETARY INSTITU-**
3 **TIONS OF HIGHER EDUCATION.**

4 (a) IN GENERAL.—Section 102(b) of the Higher
5 Education Act of 1965 (20 U.S.C. 1002(b)), is further
6 amended—

7 (1) in paragraph (1)—

8 (A) in subparagraph (D), by striking
9 “and” after the semicolon;

10 (B) in subparagraph (E), by striking the
11 period at the end and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(F) meets the requirements of paragraph
14 (2).”;

15 (2) by redesignating paragraph (2) as para-
16 graph (3); and

17 (3) by inserting after paragraph (1) the fol-
18 lowing:

19 “(2) REVENUE SOURCES.—

20 “(A) IN GENERAL.—In order to qualify as
21 a proprietary institution of higher education
22 under this subsection, an institution shall derive
23 not less than 20 percent of the institution’s rev-
24 enues from sources other than Federal funds,
25 as calculated in accordance with subparagraphs
26 (B) and (C).

1 “(B) FEDERAL FUNDS.—In this para-
2 graph, the term ‘Federal funds’ means any
3 Federal funds provided, under this Act or any
4 other Federal law, through a grant, contract,
5 subsidy, loan, guarantee, insurance, or other
6 means to a proprietary institution, including
7 Federal funds disbursed or delivered to an insti-
8 tution or on behalf of a student or to a student
9 to be used to attend the institution, except that
10 such term shall not include any monthly hous-
11 ing stipend provided under the Post-9/11 Edu-
12 cational Assistance Program under chapter 33
13 of title 38, United States Code.

14 “(C) IMPLEMENTATION OF NON-FEDERAL
15 REVENUE REQUIREMENT.—In making calcula-
16 tions under subparagraph (A), an institution of
17 higher education shall—

18 “(i) use the cash basis of accounting;

19 “(ii) consider as revenue only those
20 funds generated by the institution from—

21 “(I) tuition, fees, and other insti-
22 tutional charges for students enrolled
23 in programs eligible for assistance
24 under title IV;

1 “(II) activities conducted by the
2 institution that are necessary for the
3 education and training of the institu-
4 tion’s students, if such activities are—

5 “(aa) conducted on campus
6 or at a facility under the control
7 of the institution;

8 “(bb) performed under the
9 supervision of a member of the
10 institution’s faculty; and

11 “(cc) required to be per-
12 formed by all students in a spe-
13 cific educational program at the
14 institution; and

15 “(III) a contractual arrangement
16 with a Federal agency for the purpose
17 of providing job training to low-in-
18 come individuals who are in need of
19 such training;

20 “(iii) presume that any Federal edu-
21 cation assistance funds that are disbursed
22 or delivered to an institution on behalf of
23 a student or directly to a student will be
24 used to pay the student’s tuition, fees, or
25 other institutional charges, regardless of

1 whether the institution credits such funds
2 to the student's account or pays such
3 funds directly to the student, except to the
4 extent that the student's tuition, fees, or
5 other institutional charges are satisfied
6 by—

7 “(I) grant funds provided by an
8 outside source that—

9 “(aa) has no affiliation with
10 the institution; and

11 “(bb) shares no employees,
12 executives, or board members
13 with the institution;

14 “(II) funds provided under a con-
15 tractual arrangement with a Federal,
16 State, or local government agency for
17 the purpose of providing job training
18 to low-income individuals who are in
19 need of that training; or

20 “(III) institutional scholarships
21 described in clause (v);

22 “(iv) include no loans made by an in-
23 stitution of higher education as revenue to
24 the school, except for payments made by
25 students on such loans;

1 “(v) include a scholarship provided by
2 the institution—

3 “(I) only if the scholarship is in
4 the form of monetary aid based upon
5 the academic achievements or finan-
6 cial need of students, disbursed to
7 qualified student recipients during
8 each fiscal year from an established
9 restricted account; and

10 “(II) only to the extent that
11 funds in that account represent des-
12 ignated funds, or income earned on
13 such funds, from an outside source
14 that—

15 “(aa) has no affiliation with
16 the institution; and

17 “(bb) shares no employees,
18 executives, or board members
19 with the institution; and

20 “(vi) exclude from revenues—

21 “(I) the amount of funds the in-
22 stitution received under part C of title
23 IV, unless the institution used those
24 funds to pay a student’s institutional
25 charges;

1 “(II) the amount of funds the in-
2 stitution received under subpart 4 of
3 part A of title IV;

4 “(III) the amount of funds pro-
5 vided by the institution as matching
6 funds for any Federal program;

7 “(IV) the amount of Federal edu-
8 cation assistance funds provided to
9 the institution to pay institutional
10 charges for a student that were re-
11 funded or returned; and

12 “(V) the amount charged for
13 books, supplies, and equipment, unless
14 the institution includes that amount
15 as tuition, fees, or other institutional
16 charges.

17 “(D) REPORT TO CONGRESS.—Not later
18 than July 1, 2020, and by July 1 of each suc-
19 ceeding year, the Secretary shall submit to the
20 authorizing committees a report that contains,
21 for each proprietary institution of higher edu-
22 cation that receives assistance under title IV
23 and as provided in the audited financial state-
24 ments submitted to the Secretary by each insti-

1 tution pursuant to the requirements of section
2 487(c)—

3 “(i) the amount and percentage of
4 such institution’s revenues received from
5 Federal education assistance funds; and

6 “(ii) the amount and percentage of
7 such institution’s revenues received from
8 other sources.”.

9 (b) REPEAL OF EXISTING REQUIREMENTS.—Section
10 487 of the Higher Education Act of 1965 (20 U.S.C.
11 1094) is amended—

12 (1) in subsection (a)—

13 (A) by striking paragraph (24);

14 (B) by redesignating paragraphs (25)
15 through (29) as paragraphs (24) through (28),
16 respectively;

17 (C) in paragraph (24)(A)(ii) (as redesign-
18 ated by subparagraph (B)), by striking “sub-
19 section (e)” and inserting “subsection (d)”; and

20 (D) in paragraph (26) (as redesignated by
21 subparagraph (B)), by striking “subsection (h)”
22 and inserting “subsection (g)”;

23 (2) by striking subsection (d);

24 (3) by redesignating subsections (e) through (j)
25 as subsections (d) through (i), respectively;

1 (4) in subsection (d) (as redesignated by para-
2 graph (3)), by striking “(a)(25)” and inserting
3 “(a)(24)”;

4 (5) in subsection (f)(1) (as redesignated by
5 paragraph (3)), by striking “subsection (e)(2)” and
6 inserting “subsection (d)(2)”; and

7 (6) in subsection (g)(1) (as redesignated by
8 paragraph (3)), by striking “subsection (a)(27)” in
9 the matter preceding subparagraph (A) and insert-
10 ing “subsection (a)(26)”.

11 (c) CONFORMING AMENDMENTS.—The Higher Edu-
12 cation Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

13 (1) in section 152 (20 U.S.C. 1019a)—

14 (A) in subsection (a)(1)(A), by striking
15 “subsections (a)(27) and (h) of section 487”
16 and inserting “subsections (a)(26) and (g) of
17 section 487”; and

18 (B) in subsection (b)(1)(B)(i)(I), by strik-
19 ing “section 487(e)” and inserting “section
20 487(d)”;

21 (2) in section 153(c)(3) (20 U.S.C.
22 1019b(c)(3)), by striking “section 487(a)(25)” each
23 place the term appears and inserting “section
24 487(a)(24)”;

1 (3) in section 496(c)(3)(A) (20 U.S.C.
2 1099b(c)(3)(A)), by striking “section 487(f)” and
3 inserting “section 487(e)”; and

4 (4) in section 498(k)(1) (20 U.S.C.
5 1099c(k)(1)), by striking “section 487(f)” and in-
6 serting “section 487(e)”.

7 **SEC. 3. EFFECTIVE DATE.**

8 The amendments made by section 2 shall take effect
9 one year after the date of the enactment of this Act.

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