

# Union Calendar No. 257

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3966

**[Report No. 108–443, Part I]**

To amend title 10, United States Code, and the Homeland Security Act of 2002 to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officer Training Corps units at institutions of higher education, to improve the ability of students to participate in Senior ROTC programs, and to ensure that institutions of higher education provide military recruiters entry to campuses and access to students that is at least equal in quality and scope to that provided to any other employer.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2004

Mr. ROGERS of Alabama (for himself, Mr. COX, Mr. HUNTER, Mr. BOEHNER, Mr. PICKERING, Mr. WILSON of South Carolina, Mr. KENNEDY of Minnesota, Mr. CALVERT, Mr. KING of Iowa, Mr. BARTLETT of Maryland, Mr. SOUDER, Mr. CULBERSON, Mr. ENGLISH, Mr. AKIN, Mr. KOLBE, Mr. PEARCE, Mr. ROHRABACHER, Mr. TOOMEY, and Ms. HARRIS) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH 23, 2004

Additional sponsors: Mr. BLUNT, Mr. SESSIONS, Mr. ISAKSON, Mr. ROGERS of Michigan, Mr. GINGREY, Mr. MILLER of Florida, Mr. MCHUGH, Mrs. JO ANN DAVIS of Virginia, Mr. FOLEY, Mr. MCKEON, Mrs. MILLER of Michigan, Mr. MEEK of Florida, Mr. FRANKS of Arizona, and Mr. BACHUS

MARCH 23, 2004

Reported from the Committee on Armed Services with amendments

[Strike out all after the enacting clause and insert the part printed in italic]

MARCH 23, 2004

Referral to the Committee on Education and the Workforce extended for a period ending not later than March 23, 2004

MARCH 23, 2004

Committee on Education and the Workforce discharged; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 12, 2004]

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## A BILL

To amend title 10, United States Code, and the Homeland Security Act of 2002 to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officer Training Corps units at institutions of higher education, to improve the ability of students to participate in Senior ROTC programs, and to ensure that institutions of higher education provide military recruiters entry to campuses and access to students that is at least equal in quality and scope to that provided to any other employer.

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 “ROTC and Military*  
 5 *Recruiter Equal Access to Campus Act of 2004”.*

6 **SEC. 2. FINDINGS.**

7        *Congress makes the following findings:*

1           (1) *The Reserve Officers Training Corps (ROTC)*  
2           *program is the most common path for undergraduates*  
3           *to become United States military officers.*

4           (2) *The inclusion of both public and private un-*  
5           *dergraduate institutions in the ROTC program in-*  
6           *sure a more racially, ethnically, and socially diverse*  
7           *pool for leadership in the higher ranks of the Armed*  
8           *Forces.*

9           (3) *The majority of both minority officers and*  
10          *female officers in the Armed Forces are acquired*  
11          *through undergraduate ROTC programs.*

12          (4) *The presence of ROTC programs on college*  
13          *campuses benefits even those students who are not en-*  
14          *rolled by making them aware of the presence and role*  
15          *of the United States military.*

16          (5) *Land-grant colleges received land from the*  
17          *United States on the condition that they offer some*  
18          *military instruction in addition to their regular cur-*  
19          *riculum, forming the basis for the Nation's tradition*  
20          *of college and university acceptance of responsibility*  
21          *to contribute to the Nation's readiness.*

22          (6) *The Armed Forces face a constant challenge*  
23          *in recruiting top-quality personnel that ROTC pro-*  
24          *grams are ideally suited to meet.*

1           (7) *Military recruiters should have access to col-*  
2 *lege campuses and to college students equal in quality*  
3 *and scope to that provided all other employers.*

4           (8) *If any college or university discriminates*  
5 *against ROTC programs or military recruiters, then*  
6 *under current law that college or university becomes*  
7 *ineligible for certain Federal taxpayer support, espe-*  
8 *cially funding for many military and defense pro-*  
9 *grams.*

10           (9) *The personnel and programs of the Depart-*  
11 *ment of Homeland Security and the Department of*  
12 *Energy are mutually dependent upon a high caliber*  
13 *of well-educated, professional leadership in the Armed*  
14 *Forces in order to protect the people and territory of*  
15 *the United States.*

16           (10) *In order to more fully promote the ability*  
17 *of the Nation's Armed Forces to recruit on college*  
18 *campuses and to facilitate the ability of students to*  
19 *participate in ROTC programs on campus, the laws*  
20 *to prevent discrimination against ROTC and mili-*  
21 *tary recruiters should be updated.*

22 **SEC. 3. CERTIFICATION OF COMPLIANCE WITH ROTC AC-**  
23 **CESS PROVISIONS.**

24           *Subsection (a) of section 983 of title 10, United States*  
25 *Code, is amended—*

1           (1) by inserting “(1)” before “No funds”;

2           (2) by striking “prevents—” and inserting “pre-  
3           vents, either (or both) of the following:”;

4           (3) by striking “(1) the” and inserting “(A)  
5           The”;

6           (4) by striking “; or” and inserting a period;

7           (5) by striking “(2) a” and inserting “(B) A”;

8           and

9           (6) by adding at the end the following:

10          “(2)(A) Not later than 180 days after the date of the  
11          enactment of the ROTC and Military Recruiter Equal Ac-  
12          cess to Campus Act of 2004 and annually thereafter, the  
13          Secretary of Defense shall request from each institution of  
14          higher education that has students participating in a Sen-  
15          ior Reserve Officer Training Corps program during the  
16          then-current academic year of that institution a certifi-  
17          cation that such institution, during the next academic year  
18          of the institution, will—

19                 “(i) permit the Secretary of each military de-  
20          partment to maintain a unit of the Senior Officer  
21          Training Corps (in accordance with subsection (a))  
22          at that institution (or any subelement of that institu-  
23          tion), should such Secretary elect to maintain such a  
24          unit; and

1           “(ii) if the Secretary of the military department  
2           concerned elects not to establish or maintain a unit  
3           of the Senior Reserve Officer Training Corps at that  
4           institution, permit a student of that institution (or  
5           any subelement of that institution) to enroll in a unit  
6           of the Senior Reserve Officer Training Corps at an-  
7           other institution of higher education.

8           “(B) Any certification under subparagraph (A) shall  
9           be made by the president of the institution (or equivalent  
10          highest ranking administrative official) and shall be sub-  
11          mitted to the Secretary of Defense no later than 90 days  
12          after receipt of the request from the Secretary.

13          “(C) In the case of any institution from which a cer-  
14          tification is requested under subparagraph (A), if the Sec-  
15          retary of Defense does not receive a certification in accord-  
16          ance with subparagraph (B), or if the certification does not  
17          state that the university will comply with both clauses (i)  
18          and (ii) of subparagraph (A) during its next academic  
19          year, the Secretary shall make a determination under para-  
20          graph (1) as to whether the institution has a policy or prac-  
21          tice described in that paragraph.”.

22   **SEC. 4. EQUAL TREATMENT OF MILITARY RECRUITERS**  
23                           **WITH OTHER RECRUITERS.**

24          Subsection (b)(1) of section 983 of title 10, United  
25   States Code, is amended—

1           (1) *by striking “entry to campuses” and insert-*  
2           *ing “access to campuses”; and*

3           (2) *by inserting before the semicolon at the end*  
4           *the following: “in a manner that is at least equal in*  
5           *quality and scope to the degree of access to campuses*  
6           *and to students that is provided to any other em-*  
7           *ployer”.*

8   **SEC. 5. PROHIBITION OF FUNDING FOR POST-SECONDARY**  
9                           **SCHOOLS THAT PREVENT ROTC ACCESS OR**  
10                           **MILITARY RECRUITING.**

11           (a) *COVERED FUNDS.*—*Subsection (d) of section 983*  
12           *of title 10, United States Code, is amended—*

13                   (1) *in paragraph (1)—*

14                           (A) *by striking “limitation established in*  
15                           *subsection (a) applies” and inserting “limita-*  
16                           *tions established in subsections (a) and (b)*  
17                           *apply”;*

18                           (B) *in subparagraph (B), by inserting “for*  
19                           *any department or agency for which regular ap-*  
20                           *propriations are made” after “made available”;*  
21                           *and*

22                           (C) *by adding at the end the following new*  
23                           *subparagraphs:*

24                           “(C) *Any funds made available for the Depart-*  
25                           *ment of Homeland Security.*

1           “(D) Any funds made available for the National  
2           Nuclear Security Administration of the Department  
3           of Energy.

4           “(E) Any funds made available for the Depart-  
5           ment of Transportation.

6           “(F) Any funds made available for the Central  
7           Intelligence Agency.”; and

8           (2) by striking paragraph (2).

9           (b) CONFORMING AMENDMENTS.—(1) Subsection (b) of  
10          such section is amended by striking “subsection (d)(2)” and  
11          inserting “subsection (d)(1)”.

12          (2) Subsection (e) of such section is amended by insert-  
13          ing “, to the head of each other department and agency the  
14          funds of which are subject to the determination,” after “Sec-  
15          retary of Education”.

16          **SEC. 6. EXCLUSION OF AMOUNTS TO COVER INDIVIDUAL**  
17                                 **PAYMENTS.**

18          (a) CODIFICATION AND EXTENSION OF EXCLUSION.—  
19          Subsection (d) of section 983 of title 10, United States Code,  
20          as amended by section 5(a), is further amended—

21                 (1) by striking “The” after “(1)” and inserting  
22                 “Except as provided in paragraph (2), the”; and

23                 (2) by adding at the end the following new para-  
24                 graph:



1           “(2) *Any Federal funding specified in paragraph (1)*  
2 *that is provided to an institution of higher education, or*  
3 *to an individual, to be available solely for student financial*  
4 *assistance, related administrative costs, or costs associated*  
5 *with attendance, may be used for the purpose for which the*  
6 *funding is provided.*”.

7           **(b) CONFORMING AMENDMENTS.**—*Subsections (a) and*  
8 *(b) of such section are amended by striking “(including a*  
9 *grant of funds to be available for student aid)”.*

10          **(c) CONFORMING REPEAL OF CODIFIED PROVISION.**—  
11 *Section 8120 of the Department of Defense Appropriations*  
12 *Act, 2000 (Public Law 106–79; 10 U.S.C. 983 note), is re-*  
13 *pealed.*

14          **SEC. 7. EFFECTIVE DATE.**

15          *The amendments made by this Act shall apply with*  
16 *respect to funds appropriated for fiscal year 2005 and*  
17 *thereafter.*

Amend the title so as to read: “A bill to amend title 10, United States Code, to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officer Training Corps units at institutions of higher education, to improve the ability of students to participate in Senior ROTC programs, and to ensure that institutions of higher education provide military recruiters entry to campuses and access to students that is at least equal in quality and scope to that provided to any other employer.”.

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