

108TH CONGRESS  
2D SESSION

# H. R. 3966

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.

---

## 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

---

## 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 re-

cruiters 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:

8            (1) The Reserve Officers Training Corps  
9 (ROTC) program is the most common path for un-  
10 dergraduates to become United States military offi-  
11 cers.

12            (2) The inclusion of both public and private un-  
13 dergraduate institutions in the ROTC program in-  
14 sures a more racially, ethnically, and socially diverse  
15 pool for leadership in the higher ranks of the Armed  
16 Forces.

17            (3) The majority of both minority officers and  
18 female officers in the Armed Forces are acquired  
19 through undergraduate ROTC programs.

20            (4) The presence of ROTC programs on college  
21 campuses benefits even those students who are not  
22 enrolled by making them aware of the presence and  
23 role of the United States military.

1           (5) Land-grant colleges received land from the  
2           United States on the condition that they offer some  
3           military instruction in addition to their regular cur-  
4           riculum, forming the basis for the Nation's tradition  
5           of college and university acceptance of responsibility  
6           to contribute to the Nation's readiness.

7           (6) The Armed Forces face a constant challenge  
8           in recruiting top-quality personnel that ROTC pro-  
9           grams are ideally suited to meet.

10          (7) Military recruiters should have access to  
11          college campuses and to college students equal in  
12          quality and scope to that provided all other employ-  
13          ers.

14          (8) If any college or university discriminates  
15          against ROTC programs or military recruiters, then  
16          under current law that college or university becomes  
17          ineligible for certain Federal taxpayer support, espe-  
18          cially funding for many military and defense pro-  
19          grams.

20          (9) The personnel and programs of the Depart-  
21          ment of Homeland Security and the Department of  
22          Energy are mutually dependent upon a high caliber  
23          of well-educated, professional leadership in the  
24          Armed Forces in order to protect the people and ter-  
25          ritory of the United States.

1           (10) In order to more fully promote the ability  
 2           of the Nation’s Armed Forces to recruit on college  
 3           campuses and to facilitate the ability of students to  
 4           participate in ROTC programs on campus, the laws  
 5           to prevent discrimination against ROTC and mili-  
 6           tary recruiters should be updated.

7 **SEC. 3. PROHIBITION ON PROVISION OF HOMELAND SECU-**  
 8                           **RITY-RELATED FUNDING TO POST-SEC-**  
 9                           **ONDARY SCHOOLS THAT PREVENT ROTC AC-**  
 10                           **CESS OR MILITARY RECRUITING ON CAMPUS.**

11           (a) IN GENERAL.—The Homeland Security Act of  
 12 2002 (Public Law 107–296; 6 U.S.C. 101 et seq.) is  
 13 amended by adding at the end the following new title:

14                           **“TITLE XVIII—ADDITIONAL**  
 15                           **PROVISIONS**

16 **“SEC. 1801. PROHIBITION OF FUNDS BEING PROVIDED TO**  
 17                           **INSTITUTIONS OF HIGHER EDUCATION THAT**  
 18                           **PREVENT ROTC ACCESS OR MILITARY RE-**  
 19                           **CRUITING ON CAMPUS.**

20           “No funds made available for the Department may  
 21 be provided by contract or by grant to an institution of  
 22 higher education (including any subelement of such insti-  
 23 tution) that, by reason of a determination by the Secretary  
 24 of Defense under subsection (a) or (b) of section 983 of  
 25 title 10, United States Code, is ineligible for the receipt

1 of a contract or grant from funds specified in subsection  
2 (d) of that section.”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
4 in section 1(b) of such Act is amended by adding at the  
5 end the following new items:

“TITLE XVIII—ADDITIONAL PROVISIONS

“1801. Prohibition of funds being provided to institutions of higher education  
that prevent ROTC access or military recruiting on campus.”.

6 **SEC. 4. CERTIFICATION OF COMPLIANCE WITH ROTC AC-**  
7 **CESS PROVISIONS.**

8 Subsection (a) of section 983 of title 10, United  
9 States Code, is amended—

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

11 (2) by striking “prevents—” and inserting  
12 “prevents, either (or both) of the following:”;

13 (3) by striking “(1) the” and inserting “(A)  
14 The”;

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

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

17 and

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

19 “(2)(A) Not later than 180 days after the date of  
20 the enactment of the ROTC and Military Recruiter Equal  
21 Access to Campus Act of 2004 and annually thereafter,  
22 the Secretary of Defense shall request from each institu-  
23 tion of higher education that has students participating

1 in a Senior Reserve Officer Training Corps program dur-  
2 ing the then-current academic year of that institution a  
3 certification that such institution, during the next aca-  
4 demic year of the institution, will—

5           “(i) permit the Secretary of each military de-  
6           partment to maintain a unit of the Senior Officer  
7           Training Corps (in accordance with subsection (a))  
8           at that institution (or any subelement of that insti-  
9           tution), should such Secretary elect to maintain such  
10          a unit; and

11          “(ii) if the Secretary of the military department  
12          concerned elects not to establish or maintain a unit  
13          of the Senior Reserve Officer Training Corps at that  
14          institution, permit a student of that institution (or  
15          any subelement of that institution) to enroll in a  
16          unit of the Senior Reserve Officer Training Corps at  
17          another institution of higher education.

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

23          “(C) In the case of any institution from which a cer-  
24          tification is requested under subparagraph (A), if the Sec-  
25          retary of Defense does not receive a certification in accord-

1 ance with subparagraph (B), or if the certification does  
2 not state that the university will comply with both clauses  
3 (i) and (ii) of subparagraph (A) during its next academic  
4 year, the Secretary shall make a determination under  
5 paragraph (1) as to whether the institution has a policy  
6 or practice described in that paragraph.”.

7 **SEC. 5. EQUAL TREATMENT OF MILITARY RECRUITERS**  
8 **WITH OTHER RECRUITERS.**

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

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

13 (2) by inserting before the semicolon at the end  
14 the following: “in a manner that is at least equal in  
15 quality and scope to the degree of access to cam-  
16 puses and to students that is provided to any other  
17 employer”.

18 **SEC. 6. PROHIBITION OF FUNDING FOR POST-SECONDARY**  
19 **SCHOOLS THAT PREVENT ROTC ACCESS OR**  
20 **MILITARY RECRUITING.**

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

23 (1) in paragraph (1)—

24 (A) by striking “limitation established in  
25 subsection (a) applies” and inserting “limita-

1           tions established in subsections (a) and (b)  
2           apply”;

3                   (B) in subparagraph (B), by inserting “for  
4           any department or agency for which regular ap-  
5           propriations are made” after “made available”;  
6           and

7                   (C) by adding at the end the following new  
8           subparagraphs:

9                   “(C) Any funds made available for the Depart-  
10          ment of Homeland Security.

11                   “(D) Any funds made available for the National  
12          Nuclear Security Administration of the Department  
13          of Energy.

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

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

18                   (2) by striking paragraph (2).

19          (b) CONFORMING AMENDMENTS.—(1) Subsection (b)  
20          of such section is amended by striking “subsection (d)(2)”  
21          and inserting “subsection (d)(1)”.

22                   (2) Subsection (e) of such section is amended by in-  
23          serting “, to the head of each other department and agen-  
24          cy the funds of which are subject to the determination,”  
25          after “Secretary of Education”.



1 **SEC. 7. EXCLUSION OF AMOUNTS TO COVER INDIVIDUAL**  
2 **PAYMENTS.**

3 (a) CODIFICATION AND EXTENSION OF EXCLU-  
4 SION.—Subsection (d) of section 983 of title 10, United  
5 States Code, as amended by section 6(a), is further  
6 amended—

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

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

11 “(2) Any Federal funding specified in paragraph (1)  
12 that is provided to an institution of higher education, or  
13 to an individual, to be available solely for student financial  
14 assistance, related administrative costs, or costs associated  
15 with attendance, may be used for the purpose for which  
16 the funding is provided.”.

17 (b) CONFORMING AMENDMENTS.—Subsections (a)  
18 and (b) of such section are amended by striking “(includ-  
19 ing a grant of funds to be available for student aid)”.

20 (c) CONFORMING REPEAL OF CODIFIED PROVI-  
21 SION.—Section 8120 of the Department of Defense Ap-  
22 propriations Act, 2000 (Public Law 106–79; 10 U.S.C.  
23 983 note), is repealed

1 **SEC. 8. EFFECTIVE DATE.**

2       The amendments made by this Act shall apply with  
3 respect to funds appropriated for fiscal year 2005 and  
4 thereafter.

○