

AMENDMENT TO H.R. 8800
OFFERED BY MR. MOULTON OF MASSACHUSETTS

At the appropriate place in title V, insert the following new section:

1 **SEC. 5 ____ . LIMITATION OF AUTHORITY OF SECRETARY OF**
2 **DEFENSE TO PROHIBIT ATTENDANCE BY, OR**
3 **DENY EDUCATIONAL ASSISTANCE TO, MEM-**
4 **BERS ENROLLED AT CERTAIN INSTITUTIONS**
5 **OF HIGHER EDUCATION.**

6 (a) **LIMITATION.**—Subject to subsection (b), the Sec-
7 retary of Defense may not—

8 (1) prohibit any covered member from applying
9 to, enrolling in, attending, or completing an eligible
10 program offered by an eligible institution of higher
11 education; or

12 (2) deny covered assistance to any covered
13 member, or deny covered support to any such cov-
14 ered member, solely on the basis that the covered
15 member has applied to, enrolled in, attends, or has
16 completed an eligible program at an eligible institu-
17 tion of higher education.

18 (b) **EXCEPTION.**—

1 (1) IN GENERAL.—Subsection (a) shall not
2 apply in the case of an eligible institution of higher
3 education except if the Secretary determines in writ-
4 ing that—

5 (A) the eligible institution of higher edu-
6 cation has materially failed to comply with
7 terms of an agreement regarding the eligible
8 program;

9 (B) the eligible institution of higher edu-
10 cation has been provided notice of such failure
11 and a reasonable opportunity to cure;

12 (C) such exception is required to address a
13 specific, articulable national security risk;

14 (D) such exception is required by a provi-
15 sion of Federal law;

16 (E) such exception is pursuant to a written
17 agreement between the Secretary and the eligi-
18 ble institution of higher education; or

19 (F) the eligible institution of higher edu-
20 cation has been convicted of, or has been the
21 subject of a final civil judgment for violation of
22 any of the following:

23 (i) the Arms Export Control Act (22
24 U.S.C. 2751 et seq.) or regulations issued
25 thereunder;

1 (ii) the Export Control Reform Act of
2 2018 (50 U.S.C. 4801 et seq.) or regula-
3 tions issued thereunder;

4 (iii) the International Emergency Eco-
5 nomic Powers Act (50 U.S.C. 1701 et seq.)
6 or regulations issued thereunder; or

7 (iv) section 1831 of title 18, United
8 States Code.

9 (2) LEAST DISRUPTIVE MEANS; PROSPECTIVE
10 APPLICATION.—The Secretary may make an excep-
11 tion under this subsection by the least disruptive
12 means practicable. Such means shall include, if prac-
13 ticable, permitting an enrolled student to complete
14 the eligible program.

15 (3) EFFECTIVE DATE.—An exception under this
16 subsection may not take effect until the day that is
17 120 days after the date of a notice under paragraph
18 (1)(A).

19 (c) NOTICE.—

20 (1) RECIPIENTS.—Upon making a determina-
21 tion under subsection (b)(1), the Secretary shall sub-
22 mit written notice of such determination to—

23 (A) the eligible institution of higher edu-
24 cation; and

1 (B) the appropriate congressional commit-
2 tees.

3 (2) CONTENTS.—A notice under paragraph (1)
4 shall include—

5 (A) the effective date, end date, and scope
6 of the exception under subsection (b); and

7 (B) an unclassified summary of the rea-
8 sons for the exception, and, if necessary, a clas-
9 sified annex provided to the appropriate con-
10 gressional committees.

11 (d) TERMINATION OF EXISTING PROHIBITION.—Any
12 prohibition described in subsection (a) in effect on the date
13 of enactment of this section shall have no force or effect
14 on or after such date.

15 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed to require the Secretary to approve
17 any request for covered assistance or covered support if
18 the covered member does not meet neutral eligibility or
19 selection requirements that are applied without regard to
20 the identity of the eligible institution of higher education.

21 (f) DEFINITIONS.—In this section:

22 (1) The term “appropriate congressional com-
23 mittee” means—

24 (A) the Committee on Armed Services of
25 the House of Representatives; or

1 (B) the Committee on Armed Services of
2 the Senate.

3 (2) The term “covered Armed Force” means
4 the Army, Navy, Marine Corps, Air Force, or Space
5 Force.

6 (3) The term “covered assistance” means edu-
7 cational assistance under laws administered by the
8 Secretary of Defense, including under part III of
9 subtitle A of title 10, United States Code.

10 (4) The term “covered member” means a mem-
11 ber—

12 (A) of a covered Armed Force; or

13 (B) of the Senior Reserve Officers’ Train-
14 ing Corps of a covered Armed Force.

15 (5) The term “covered support” means any
16 sponsorship, allowance, or facilitation by the Sec-
17 retary of Defense of a member’s participation in
18 education or training. Such term includes selection,
19 nomination, assignment, detailing, or authorization
20 or dispensation with regards to a fellowship, scholar-
21 ship, program of professional military education, de-
22 gree program, certificate program, or other training
23 or education program conducted in whole or in part
24 at an institution of higher education (whether full-
25 time, part-time, in-residence, or distance).

1 (6) The term “eligible institution of higher edu-
2 cation” means an institution of higher education, in-
3 cluding any component thereof, that—

4 (A) is accredited, and maintains accredita-
5 tion in good standing, by an accrediting agency
6 or association recognized by the Secretary of
7 Education under subpart 2 of part H of title IV
8 of the Higher Education Act of 1965 (20
9 U.S.C. 1099b); and

10 (B) operates an eligible program.

11 (7) The term “eligible program” means a pro-
12 gram described in section 2006a(a) of title 10,
13 United States Code.

14 (8) The term “institution of higher education”
15 has the meaning given such term in section 102 of
16 the Higher Education Act of 1965 (20 U.S.C.
17 1002).

