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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend the Higher Education Act of 1965 to ensure that personally identifiable information provided in the Free Application for Federal Student Aid is not used for immigration enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. RANDALL introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Higher Education Act of 1965 to ensure that personally identifiable information provided in the Free Application for Federal Student Aid is not used for immigration enforcement, and for other purposes.

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 “Protecting Student
5 Privacy Act”.

1 **SEC. 2. PROTECTION OF PERSONALLY IDENTIFIABLE IN-**
2 **FORMATION.**

3 Part G of title IV of the Higher Education Act of
4 1965 (20 U.S.C. 1088 et seq.) is amended by adding at
5 the end the following new section:

6 **“SEC. 494A. PROHIBITION ON USE OF PERSONALLY IDENTIFI-**
7 **FIABLE INFORMATION FOR IMMIGRATION**
8 **ENFORCEMENT PURPOSES.**

9 “(a) IN GENERAL.—Notwithstanding any other pro-
10 vision of law and except as provided in subsection (b), no
11 Federal student aid information may be—

12 “(1) shared with or used by the Department of
13 Homeland Security, any other Federal agency that
14 has immigration enforcement authority, or a State
15 or local agency that has in effect an agreement with
16 the Department of Homeland Security under section
17 287(g) of the Immigration and Nationality Act (8
18 U.S.C. 1357) for the purposes of immigration en-
19 forcement; or

20 “(2) treated as information subject to disclo-
21 sure under section 642 of the Omnibus Consolidated
22 Appropriations Act, 1997 (8 U.S.C. 1373).

23 “(b) EXCEPTION.—The prohibition under subsection
24 (a) shall not apply to Federal student aid information—

25 “(1) required to be disclosed pursuant to a
26 court order issued in connection with the commission

1 of a Federal or State criminal offense alleged to
2 have been committed by the student; or

3 “(2) subject to subsection (c), in a case in
4 which the student or contributor individual has vol-
5 untarily and expressly consented to the disclosure of
6 such information to an agency described in sub-
7 section (a)(1).

8 “(c) PROHIBITION ON COERCION.—The exception
9 under subsection (b)(2) shall not apply in a case in which
10 an agency described in subsection (a)(1)—

11 “(1) requested that a student or contributor in-
12 dividual consent to the disclosure of Federal student
13 aid information; or

14 “(2) coerced or otherwise pressured a student
15 or contributor individual to consent to such disclo-
16 sure.

17 “(d) REPORTING TO CONGRESS.—In the event the
18 Secretary discloses or learns of a disclosure of Federal stu-
19 dent aid information in violation of this section, the Sec-
20 retary shall submit to Congress a report that describes
21 the circumstances of such disclosure, the nature of the in-
22 formation disclosed, and any steps taken to remedy the
23 disclosure.

24 “(e) RELATIONSHIP TO OTHER LAW.—This section
25 supercedes any contrary provision of Federal, State, or

1 local law to the extent such law would authorize disclosure
2 of Federal student aid information in violation of this sec-
3 tion.

4 “(f) DEFINITIONS.—In this section:

5 “(1) CONTRIBUTOR INDIVIDUAL.—The term
6 ‘contributor individual’ means any individual (includ-
7 ing a spouse or parent of a student or borrower)
8 whose financial information, including tax return in-
9 formation, is required to be provided on an applica-
10 tion for any program, activity, or benefit under this
11 title.

12 “(2) FEDERAL STUDENT AID INFORMATION.—
13 The term ‘Federal student aid information’ means
14 any personally identifiable information (as that term
15 is used in section 444 of the General Education Pro-
16 visions Act (20 U.S.C. 1232g; commonly known as
17 the Family Educational Rights and Privacy Act of
18 1974)) about a student or other contributor indi-
19 vidual that is submitted or used in connection with
20 a determination of initial or continuing eligibility for
21 any program, activity, or benefit under this title.

22 “(3) IMMIGRATION ENFORCEMENT.—The term
23 ‘immigration enforcement’ means an apprehension,
24 an arrest, an interview, a request for identification,

1 a search, or surveillance for the purposes of enforce-
2 ing the immigration laws.

3 “(4) IMMIGRATION LAWS.—The term ‘immigra-
4 tion laws’ has the meaning given the term in section
5 101(a)(17) of the Immigration and Nationality Act
6 (8 U.S.C. 1101(a)(17)).”.