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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To modify the criteria for recognition of accrediting agencies or associations
for institutions of higher education.

IN THE HOUSE OF REPRESENTATIVES

Mr. BANKS introduced the following bill; which was referred to the Committee
on _____

A BILL

To modify the criteria for recognition of accrediting agencies
or associations for 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 “Fairness in Higher
5 Education Accreditation Act”.

6 **SEC. 2. CRITERIA FOR RECOGNITION OF ACCREDITING**
7 **AGENCIES OR ASSOCIATIONS.**

8 Section 496 of the Higher Education Act of 1965 (20
9 U.S.C. 1099b) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (5)—

3 (i) in subparagraph (I), by striking
4 “and” after the semicolon;

5 (ii) in subparagraph (J), by inserting
6 “and” after the semicolon; and

7 (iii) by inserting after subparagraph
8 (J), and before the flush text, the fol-
9 lowing:

10 “(K) except in the case of an institution
11 described in subsection (r)(2), success in ensur-
12 ing a right of free inquiry (as defined in sub-
13 section (r)(1));”;

14 (B) in paragraph (7), by striking “and”
15 after the semicolon;

16 (C) in paragraph (8), by striking the pe-
17 riod at the end and inserting “; and”; and

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

19 “(9) as part of the accrediting process, such an
20 agency or association shall not consider—

21 “(A) the diversity, equity, and inclusion
22 policies of an institution of higher education;
23 and

1 “(B) the racial composition of the accepted
2 applicants, students, or the faculty or staff, of
3 an institution of higher education.”;

4 (2) in subsection (g), in the second sentence, by
5 striking “Nothing in this Act” and inserting “Sub-
6 ject to subsection (a)(9), nothing in this Act”;

7 (3) in subsection (p), by striking “Nothing in
8 subsection (a)(5)” and inserting “Subject to sub-
9 section (a)(9), nothing in subsection (a)(5)”;

10 (4) by adding at the end the following:

11 “(r) FREE INQUIRY.—

12 “(1) FREE INQUIRY.—In this section, the term
13 ‘free inquiry’ means—

14 “(A) in the case of a public institution of
15 higher education that is legally required to
16 abide by the First Amendment to the Constitu-
17 tion, compliance with—

18 “(i) the First Amendment to the Con-
19 stitution, including protections for freedom
20 of speech, association, press, religion, as-
21 sembly, and petition; and

22 “(ii) the institution’s own written poli-
23 cies regarding academic freedom; or

24 “(B) in the case of a private institution of
25 higher education, adherence to the institution’s

1 written institutional policies concerning freedom
2 of speech, association, press, religion, assembly,
3 petition, and academic freedom.

4 “(2) RELIGIOUS EXEMPTION.—An institution
5 described in any of subparagraphs (A) through (F)
6 shall not be subject to the free inquiry requirements
7 of subsection (a)(5)(K). Such exempt institutions
8 shall include:

9 “(A) An institution that is a school or de-
10 partment of divinity.

11 “(B) An institution that requires its fac-
12 ulty, students, or employees to be members of,
13 or otherwise engage in religious practices of, or
14 espouse a personal belief in, the religion of the
15 organization by which it claims to be controlled.

16 “(C) An institution that in its charter or
17 catalog, or other official publication, contains
18 an explicit statement that it is controlled by a
19 religious organization or an organ thereof, or is
20 committed to the doctrines or practices of a
21 particular religion, and the members of its gov-
22 erning body are appointed by the controlling re-
23 ligious organization or an organ thereof, and it
24 receives a significant amount of financial sup-

1 port from the controlling religious organization
2 or an organ thereof.

3 “(D) An institution that has a doctrinal
4 statement or a statement of religious practices,
5 along with a statement that members of the in-
6 stitution community must engage in the reli-
7 gious practices of, or espouse a personal belief
8 in, the religion, its practices, or the doctrinal
9 statement or statement of religious practices.

10 “(E) An institution that has a published
11 institutional mission that is approved by the
12 governing body of an educational institution
13 and that includes, refers to, or is predicated
14 upon religious tenets, beliefs, or teachings.

15 “(F) An institution with respect to which
16 there is other evidence sufficient to establish
17 that the institution is controlled by a religious
18 organization, pursuant to section 901(a)(3) of
19 the Education Amendments of 1972 (20 U.S.C.
20 1681(a)(3)).”.

21 **SEC. 3. CIVIL ACTION.**

22 An institution of higher education (as defined in sec-
23 tion 102 of the Higher Education Act of 1965 (20 U.S.C.
24 1002), and including both public and private institutions
25 as so defined) that is subject to a denial, withdrawal, or

1 termination of accreditation as a result of an accrediting
2 agency or association's violation of the prohibition estab-
3 lished in paragraph (9) of section 496(a) of the Higher
4 Education Act of 1965 (20 U.S.C. 1099b(a)), as added
5 by section 2 of this Act, may pursue a civil action in ac-
6 cordance with subsections (e) and (f) of such section 496.