Closing the 90/10 Loophole in the Higher Education Act: How to Stop Exploitation of Veterans, Protect American Taxpayers, and Restore Market Incentives to the For-Profit College Industry

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The 90/10 rule in the Higher Education Act ("HEA") requires for-profit colleges to obtain at least 10% of their revenue from sources other than the federal government. There is, however, a critical loophole in the law: Post-9/ 11 GI Bill benefits technically do not count as federal revenue under the rule. For-profit colleges have shaped a profitable business model around this loop- hole and are exploiting U.S. veterans for their Post-9/11 GI Bill benefits. By manipulating a gap in the federal laws intended to prevent the precise behavior in which they are engaging, these for-profit colleges can now secure up to 100% of their revenue risk free from the federal government. Compounding this problem, for-profit colleges maintain the country's

highest tuition rates, lowest graduation rates, and highest student loan default rates. Despite such troubling outcomes, these corporately owned colleges are the country's largest recipients of federal student aid funds.

This Note argues that Congress must amend the 90/10 rule to (1) count Post-9/11 GI Bill benefits as federal, not private, sources of revenue and (2) lower the cap on federal revenue from 90% to 55% of a for-profit college's total revenue. This two-pronged amendment would fulfill the legislative intent of both the 90/10 rule and the Post-9/11 GI Bill. And by restoring market incentives to the for-profit college industry, this amendment would stop ex- ploitation of veterans, reduce student loan defaults, and eliminate wasteful government spending.

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