

By Mr. AKAKA:

S. 3447. A bill to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I am introducing today the proposed Post-9/11 Veterans Educational Assistance Improvements Act of 2010. This measure is designed to make a number of modifications to the new program of educational assistance which became effective on August 1, 2009.

As one of three remaining Senators who benefited from the original GI Bill following World War II, I know firsthand the value of an education and of the critical role that this important veterans benefit played in my life. That was why I was especially pleased to join with the distinguished Senator from Virginia, Mr. WEBB, in achieving enactment of the new Post-9/11 GI Bill in 2008.

Now, with ten months of experience under the new program, I believe it is time to look at what improvements and modifications need to be made in order for the program to reach its potential. I note at the outset that this will not be a simple process. Nor will it be quickly and easily accomplished. There are issues that we can readily see need to be addressed. There are others, however, that are only just now coming to our attention as the program is implemented and veterans, servicemembers, and their families begin to receive benefits under the program.

I will highlight some of the provisions that are contained in the bill I am introducing today:

It would make members of the National Guard and Reserve programs who were inadvertently omitted from inclusion fully eligible for benefits.

It would make all types of training— including vocational programs, OJT and apprenticeship training, flight, all types of non-college degree training and more—eligible for benefits under the new program. By doing this, individuals would not need to make an irreversible decision as to whether or not to receive benefits under the old Montgomery GI Bill or under the new program.

It would eliminate the complicated, confusing and, in some cases, inequitable calculation of State-by-State tuition and fee caps to determine benefits for individuals enrolled in degree programs. Basically, it would provide that eligible individuals enrolled in degreegranting programs of study at public institutions anywhere in the United States would pay little, if any, out of pocket costs for their education. For students enrolled in other institutions of higher learning, benefits would be paid based on a national average cost of education which would be indexed and increased annually.

It would provide for a modified living allowance to be paid in the case of an individual pursuing a program of education solely through distance learning. Individuals who currently are studying through a combination of distance and classroom training would continue to receive benefits as they do now.

It would make a book allowance award of up to \$1,000 available to individuals enrolled while on active duty and their spouses.

It would allow individuals enrolled in VA's program of rehabilitation and training under chapter 31 of title 38 who also have eligibility for the new chapter 33 program to elect the program from which to receive their subsistence allowance. This would mean that a service-connected disabled OEF/OIF veteran would not need to elect to training under the new GI Bill

and forego the valuable counseling and support services available under chapter 31 in order to receive an increased living allowance.

It would modify the manner in which the living allowance is calculated to reflect the rate at which training is pursued.

It would ensure that the same period of active duty cannot be used to establish eligibility for more than one program of education.

This is not a complete recitation of all the provisions contained in the measure I am introducing today. In addition, I do not expect that every provision of the measure will necessarily be supported by all the stakeholders involved in this important issue. Indeed, I imagine there could be some who will be critical of some provisions in the proposal and will come forward to offer improvements and modifications.

What my measure is intended to do, is to serve as a starting point to move forward in this important yet very complicated and complex endeavor. I strongly believe that whatever is done in this connection must not be done in a piecemeal manner. We need a full and deliberative consideration of all the issues in order to craft the best possible approach to delivering these important benefits to our Nation's veterans and those who are serving in uniform.

I look forward to working with all our colleagues and others on these issues in the days ahead. As I noted this will not be done quickly or easily but this measure will serve as a focus for our discussions and decisions.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Post-9/11 Veterans Educational Assistance Improvements Act of 2010".

SEC. 2. MODIFICATION OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE.

(a) MODIFICATION OF DEFINITIONS THAT CONCERN ELIGIBILITY FOR EDUCATIONAL ASSISTANCE.—

(1) MODIFICATION OF DEFINITION OF ACTIVE DUTY WITH RESPECT TO MEMBERS OF RESERVE COMPONENTS GENERALLY.—Paragraph (1)(B) of section 3301 of title 38, United States Code, is amended by striking "of title 10." and inserting the following: "of title 10—

"(i) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components of the Armed Forces; or

"(ii) in support of a contingency operation (as defined in section 101(a) of title 10).".

(2) EXPANSION OF DEFINITION OF ACTIVE DUTY TO INCLUDE SERVICE IN NATIONAL GUARD FOR CERTAIN PURPOSES.—Paragraph (1) of such section is amended by adding at the end the following new subparagraph:

"(C) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, in addition to service described in subparagraph (B), full-time service—

“(i) in the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard; and

“(ii) in the National Guard under section 502(f) of title 32 when authorized by the President or Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.”; and

(3) EXPANSION OF DEFINITION OF ENTRY LEVEL AND SKILL TRAINING TO INCLUDE ONE STATION UNIT TRAINING.—Paragraph (2)(A) of such section is amended by inserting “or One Station Unit Training” before the period at the end.

(b) CLARIFICATION OF APPLICABILITY OF HONORABLE SERVICE REQUIREMENT FOR CERTAIN DISCHARGES AND RELEASES FROM THE ARMED FORCES AS BASIS FOR ENTITLEMENT TO EDUCATIONAL ASSISTANCE.—Section 3311(c)(4) of such title is amended in the matter preceding subparagraph (A) by striking “A discharge or release from active duty in the Armed Forces” and inserting “A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service”.

(c) EXCLUSION OF PERIOD OF SERVICE ON ACTIVE DUTY OF PERIODS OF SERVICE IN CONNECTION WITH ATTENDANCE AT THE COAST GUARD ACADEMY.—Section 3311(d)(2) of such title is amended by inserting “or section 182 of title 14” before the period at the end.

SEC. 3. MODIFICATION OF AMOUNT OF ASSISTANCE AND TYPES OF APPROVED PROGRAMS OF EDUCATION.

(a) AMOUNT OF EDUCATIONAL ASSISTANCE FOR PROGRAMS OF EDUCATION PURSUED AT PUBLIC, NON-PUBLIC, AND FOREIGN INSTITUTIONS OF HIGHER LEARNING.—Section 3313(c) of title 38, United States Code, is amended—

(1) by striking the subsection heading and inserting the following: “PROGRAMS OF EDUCATION AT INSTITUTIONS OF HIGHER LEARNING PURSUED AT MORE THAN HALF-TIME BASIS.—”;

(2) in the matter preceding paragraph (1) by inserting “at an institution of higher learning (as defined in section 3452(f) of this title)” after “program of education”; and

(3) in paragraph (1), by amending subparagraph (A) to read as follows:

“(A) An amount equal to—

“(i) in the case that such institution is a public institution of higher learning, the established charges for the program of education; and

“(ii) in the case that such institution is a non-public or foreign institution of higher learning, the lesser of—

“(I) the established charges for the program of education; or

“(II) the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.”.

(b) MODIFICATION OF AMOUNT OF MONTHLY STIPENDS, INCLUDING STIPENDS FOR PARTTIME STUDY, DISTANCE LEARNING, AND PURSUIT OF PROGRAMS OF EDUCATION AT FOREIGN INSTITUTIONS OF HIGHER LEARNING.—Subparagraph (B) of section 3313(c)(1) of such title is amended—

(1) by redesignating clause (ii) as clause (iv); and

(2) by striking clause (i) and inserting the following new clauses:

“(i) Except as provided in clauses (ii) and (iii), for each month the individual pursues the program of education, a monthly housing stipend amount equal to the product of—

“(I) the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher learning at which the individual is enrolled, multiplied by

“(II) the lesser of one or the quotient of—

“(aa) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

“(bb) the minimum number of course hours required for full-time pursuit of such program of education.

“(ii) In the case of an individual pursuing a program of education at a foreign institution of higher learning, for each month the individual pursues the program of education, a monthly housing stipend amount equal to the product of—

“(I) the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5, multiplied by

“(II) the lesser of one or the quotient of—

“(aa) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

“(bb) the minimum number of course hours required for full-time pursuit of such program of education.

“(iii) In the case of an individual pursuing a program of education through distance learning on more than a half-time basis, a monthly housing stipend amount in an amount equal to 50 percent of the amount payable under clause (ii) if the individual were otherwise entitled to a monthly housing stipend under that clause for pursuit of the program of education.”.

(c) EDUCATIONAL ASSISTANCE FOR APPROVED PROGRAMS OF EDUCATION AT INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGHER LEARNING.—

(1) APPROVED PROGRAMS OF EDUCATION AT INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGHER LEARNING.—Subsection (b) of section 3313 of such title is amended by striking “is offered by an institution of higher learning (as that term is defined in section 3452(f)) and”.

(2) ASSISTANCE FOR PURSUIT OF PROGRAMS OF EDUCATION AT INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGHER LEARNING.—Such section is further amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following new subsection (g):

“(g) PROGRAMS OF EDUCATION PURSUED AT INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGHER LEARNING.—

“(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education at an institution other than an institution of higher learning.

“(2) AMOUNT OF ASSISTANCE.—The amounts of educational assistance payable under this chapter to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education at an institution other than an institution of higher learning (as defined in section 3452(f) of this title) are amounts as follows:

“(A) In the case of an individual enrolled in a program of education (other than a program described in subparagraphs (B) through (D)) in pursuit of a certificate or other noncollege degree, amounts as follows:

“(i) The lesser of—

“(I) the established charges for the program of education; or

“(II) the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.

“(ii) A monthly stipend in an amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution at which the individual is enrolled.

“(B) In the case of an individual enrolled in a program of education consisting of on-job training or a program of apprenticeship, amounts as follows:

“(i) For each month the individual pursues the program—

“(I) in the first six-month period of the program, an amount equal to 75 percent of 1/12 of the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year;

“(II) in the second six-month period of the program, an amount equal to 55 percent of 1/12 of the amount of such average; and

“(III) in any month after the first 12 months of such program, an amount equal to 35 percent of 1/12 of the amount of such average.

“(ii) A monthly stipend in an amount equal to the lesser of—

“(I) the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the employer at which the individual pursues such program; or

“(II) the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5.

“(C) In the case of an individual enrolled in a program of education consisting of flight training, an amount equal to the lesser of—

“(i) the established charges for the program of education; or

“(ii) 60 percent of the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.

“(D) In the case of an individual enrolled in a program of education that is pursued exclusively by correspondence, an amount equal to the lesser of—

“(i) the established charges for the program of education; or

“(ii) 55 percent of the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.

“(3) CHARGE AGAINST ENTITLEMENT.—The entitlement of an individual to educational assistance under this chapter shall be charged at the rate of one month for each month of assistance provided under this subsection.”.

(3) CONFORMING AMENDMENT.—Subsection (h) of such section 3313, as redesignated by paragraph (2) of this subsection, is amended by striking “(e)(2), and (f)(2)(A)” and inserting “subsections (e)(2) and (f)(2)(A), and subparagraphs (A)(i), (B)(i), (C), and (D) of subsection (g)(2)”.

(d) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—

(1) IN GENERAL.—Subsection (e)(2) of such section is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) in the matter preceding clause (i), as redesignated by subparagraph (A)—

(i) by striking “The amount” and inserting “The amounts”; and

(ii) by striking “is the lesser of—” and inserting “are the amounts as follows:

“(A) An amount equal to the lesser of—”; and

(C) by adding at the end the following new subparagraph (B):

“(B) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

“(i) \$1,000, multiplied by

“(ii) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.”.

(2) TECHNICAL AMENDMENT.—Clause (ii) of subsection (e)(2)(A) of such section, as redesignated by paragraph (1)(A) of this subsection, is amended by adding a period at the end.

SEC. 4. MODIFICATION OF ASSISTANCE FOR LICENSURE AND CERTIFICATION TESTS.

(a) REPEAL OF LIMITATION ON NUMBER OF REIMBURSABLE TESTS.—Subsection (a) of section 3315 of title 38, United States Code, is amended by striking “one licensing or certification test” and inserting “licensing or certification tests”.

(b) CHARGE OF ENTITLEMENT FOR RECEIPT OF ASSISTANCE.—Such section is further amended by striking subsection (c) and inserting the following new subsection (c):

“(c) CHARGE AGAINST ENTITLEMENT.—The charge against entitlement of an individual under this chapter for payment for a licensing or certification test under subsection (a) shall be charged at the rate of one month for each amount equal to 1/12 of the amount of the average of the established charges at all institutions of higher learning in the United States for a program of education leading to a baccalaureate degree as determined by the National Center for Education Statistics of the Department of Education for the most recent academic year.”.

SEC. 5. TRANSFER OF ENTITLEMENT TO SUPPLEMENTAL EDUCATIONAL ASSISTANCE TO POST-9/11 EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 3316 of title 38, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following new subsection (c):

“(c) TRANSFER OF SUPPLEMENTAL EDUCATIONAL ASSISTANCE.—

“(1) IN GENERAL.—An individual entitled to supplemental educational assistance under subchapter III of chapter 30 of this title may transfer such entitlement to entitlement for supplemental educational assistance under this section. Such individual shall receive entitlement

to one month of supplemental educational assistance under this section for each month of entitlement to supplemental educational assistance so transferred.

“(2) RATE.—The monthly rate of supplemental educational assistance payable to an individual who transfers entitlement under paragraph (1) shall be payable at the same rate as such entitlement would otherwise be payable to such individual under subchapter III of chapter 30 of this title.

“(3) NATURE OF TRANSFERRED ENTITLEMENT.— An amount of supplemental educational assistance transferred under paragraph (1) shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section 3313(c) (as applicable).”

(b) CLARIFICATION ON REIMBURSEMENT OF INCREASED OR SUPPLEMENTAL ASSISTANCE.—Such section is further amended by inserting after subsection (c), as added by subsection (a)(2) of this section, the following new subsection (d):

“(d) REIMBURSEMENT.—Any expense incurred by the Secretary for the provision of increased assistance or supplemental assistance to an individual under this section shall be reimbursed by the Secretary concerned.”

SEC. 6. TRANSFER OF UNUSED EDUCATION BENEFITS TO FAMILY MEMBERS.

(a) ADMINISTRATION OF TRANSFERS OF ENTITLEMENT BY INDIVIDUALS NO LONGER MEMBERS OF THE ARMED FORCES.—Section 3319(h) of title 38, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

“(7) ADMINISTRATION FOR INDIVIDUALS NO LONGER MEMBERS OF THE ARMED FORCES.—The Secretary of Defense shall administer the provisions of this section with respect to individuals who are discharged or released from the Armed Forces, including the making of any determinations of eligibility of such individuals for transfers of entitlement under this section and the processing of applications to transfer, modify, or revoke entitlement under this section.”

(b) APPLICABILITY OF ENTITLEMENT AUTHORITY TO MEMBERS OF PUBLIC HEALTH SERVICE AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.— Section 3319 of such title is amended by striking subsection (k).

(c) REIMBURSEMENT OF EXPENSES OF SECRETARY OF VETERANS AFFAIRS BY SECRETARY CONCERNED.—Such section is further amended by adding at the end the following new subsection (k):

“(k) REIMBURSEMENT OF EXPENSES OF SECRETARY OF VETERANS AFFAIRS BY SECRETARY CONCERNED.—Any expense incurred by the Secretary for the provision of educational assistance under subsection (a) to a dependent described in such subsection shall be reimbursed by the Secretary concerned.”

(d) TECHNICAL CORRECTION.—Subsection (b)(2) of such section is amended by striking “to section (k)” and inserting “to subsection (j)”.

SEC. 7. LIMITATIONS ON RECEIPT OF EDUCATIONAL ASSISTANCE UNDER NATIONAL CALL TO SERVICE AND OTHER PROGRAMS OF EDUCATIONAL ASSISTANCE.

(a) **BAR TO DUPLICATION OF EDUCATIONAL ASSISTANCE BENEFITS.**—Section 3322(a) of title 38, United States Code, is amended by inserting “or section 510” after “or 1607”.

(b) **LIMITATION ON CONCURRENT RECEIPT OF EDUCATIONAL ASSISTANCE.**—Section 3681(b)(2) of such title is amended by inserting “and section 510” after “and 107”.

SEC. 8. APPROVAL OF PROGRAMS OF EDUCATION CONSISTING OF DISTANCE LEARNING.

(a) **NONACCREDITED COURSES PURSUED BY DISTANCE LEARNING.**—Section 3676(e) of title 38, United States Code, is amended by inserting “or distance learning” after “independent study”.

(b) **DISAPPROVAL OF ENROLLMENT IN NONACCREDITED COURSES OF DISTANCE LEARNING.**—Section 3680A(a)(4) of such title is amended by inserting “or distance learning” after “independent study” each place it appears.

(c) **RULEMAKING.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe regulations under section 3323(c) of such title for the administration and approval of programs of education that consist of distance learning.

(d) **DISTANCE LEARNING DEFINED.**—In this section, the term “distance learning” has the meaning given the term “distance education” in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

SEC. 9. INCREASE IN AMOUNT OF REPORTING FEE.

Section 3684(c) of title 38, United States Code, is amended—

(1) by striking “multiplying \$7” and inserting “multiplying \$12”; and

(2) by striking “or \$11” and inserting “or \$15”.

SEC. 10. AMOUNT OF SUBSISTENCE ALLOWANCE FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

Section 3108(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(4) A veteran entitled to subsistence allowance under this chapter may elect to receive payment from the Secretary, in lieu of an amount otherwise determined by the Secretary under this subsection, an amount equal to the national average of the monthly amount of basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5.”.

SEC. 11. REPEAL OF AUTHORITY TO MAKE CERTAIN INTERVAL PAYMENTS.

Section 3680(a) of title 38, United States Code, is amended after the flush matter—

(1) in subparagraph (A), by adding “or” at the end;

(2) in subparagraph (B), by striking “; or” and inserting a period; and

(3) by striking subparagraph (C).