

111TH CONGRESS
2^D SESSION

S. 3447

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.

IN THE SENATE OF THE UNITED STATES

MAY 27 (legislative day, MAY 26), 2010

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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.

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 “Post-9/11 Veterans
5 Educational Assistance Improvements Act of 2010”.

1 **SEC. 2. MODIFICATION OF ENTITLEMENT TO EDUCATIONAL**
2 **ASSISTANCE.**

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

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

11 “(i) for the purpose of organizing, ad-
12 ministering, recruiting, instructing, or
13 training the reserve components of the
14 Armed Forces; or

15 “(ii) in support of a contingency oper-
16 ation (as defined in section 101(a) of title
17 10).”.

18 (2) EXPANSION OF DEFINITION OF ACTIVE
19 DUTY TO INCLUDE SERVICE IN NATIONAL GUARD
20 FOR CERTAIN PURPOSES.—Paragraph (1) of such
21 section is amended by adding at the end the fol-
22 lowing new subparagraph:

23 “(C) In the case of a member of the Army
24 National Guard of the United States or Air Na-
25 tional Guard of the United States, in addition

1 to service described in subparagraph (B), full-
2 time service—

3 “(i) in the National Guard of a State
4 for the purpose of organizing, admin-
5 istering, recruiting, instructing, or training
6 the National Guard; and

7 “(ii) in the National Guard under sec-
8 tion 502(f) of title 32 when authorized by
9 the President or Secretary of Defense for
10 the purpose of responding to a national
11 emergency declared by the President and
12 supported by Federal funds.”.

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

18 (b) CLARIFICATION OF APPLICABILITY OF HONOR-
19 ABLE SERVICE REQUIREMENT FOR CERTAIN DISCHARGES
20 AND RELEASES FROM THE ARMED FORCES AS BASIS FOR
21 ENTITLEMENT TO EDUCATIONAL ASSISTANCE.—Section
22 3311(c)(4) of such title is amended in the matter pre-
23 ceding subparagraph (A) by striking “A discharge or re-
24 lease from active duty in the Armed Forces” and inserting
25 “A discharge or release from active duty in the Armed

1 Forces after service on active duty in the Armed Forces
2 characterized by the Secretary concerned as honorable
3 service”.

4 (c) EXCLUSION OF PERIOD OF SERVICE ON ACTIVE
5 DUTY OF PERIODS OF SERVICE IN CONNECTION WITH
6 ATTENDANCE AT THE COAST GUARD ACADEMY.—Section
7 3311(d)(2) of such title is amended by inserting “or sec-
8 tion 182 of title 14” before the period at the end.

9 **SEC. 3. MODIFICATION OF AMOUNT OF ASSISTANCE AND**
10 **TYPES OF APPROVED PROGRAMS OF EDU-**
11 **CATION.**

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

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

21 (2) in the matter preceding paragraph (1) by
22 inserting “at an institution of higher learning (as
23 defined in section 3452(f) of this title)” after “pro-
24 gram of education”; and

1 (3) in paragraph (1), by amending subpara-
2 graph (A) to read as follows:

3 “(A) An amount equal to—

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

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

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

13 “(II) the amount of the average
14 of the established charges at all insti-
15 tutions of higher learning in the
16 United States for a program of edu-
17 cation leading to a baccalaureate de-
18 gree as determined by the National
19 Center for Education Statistics of the
20 Department of Education for the
21 most recent academic year.”.

22 (b) MODIFICATION OF AMOUNT OF MONTHLY STI-
23 PENDS, INCLUDING STIPENDS FOR PART-TIME STUDY,
24 DISTANCE LEARNING, AND PURSUIT OF PROGRAMS OF
25 EDUCATION AT FOREIGN INSTITUTIONS OF HIGHER

1 LEARNING.—Subparagraph (B) of section 3313(c)(1) of
2 such title is amended—

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

4 and

5 (2) by striking clause (i) and inserting the fol-
6 lowing new clauses:

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

12 “(I) the monthly amount of the
13 basic allowance for housing payable
14 under section 403 of title 37 for a
15 member with dependents in pay grade
16 E-5 residing in the military housing
17 area that encompasses all or the ma-
18 jority portion of the ZIP code area in
19 which is located the institution of
20 higher learning at which the indi-
21 vidual is enrolled, multiplied by

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

24 “(aa) the number of course
25 hours borne by the individual in

1 pursuit of the program of edu-
2 cation involved, divided by

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

7 “ (ii) In the case of an individual pur-
8 suing a program of education at a foreign
9 institution of higher learning, for each
10 month the individual pursues the program
11 of education, a monthly housing stipend
12 amount equal to the product of—

13 “ (I) the national average of the
14 monthly amount of the basic allow-
15 ance for housing payable under sec-
16 tion 403 of title 37 for a member with
17 dependents in pay grade E-5, multi-
18 plied by

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

21 “ (aa) the number of course
22 hours borne by the individual in
23 pursuit of the program of edu-
24 cation involved, divided by

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

5 “(iii) In the case of an individual pur-
6 suing a program of education through dis-
7 tance learning on more than a half-time
8 basis, a monthly housing stipend amount
9 in an amount equal to 50 percent of the
10 amount payable under clause (ii) if the in-
11 dividual were otherwise entitled to a
12 monthly housing stipend under that clause
13 for pursuit of the program of education.”.

14 (c) EDUCATIONAL ASSISTANCE FOR APPROVED PRO-
15 GRAMS OF EDUCATION AT INSTITUTIONS OTHER THAN
16 INSTITUTIONS OF HIGHER LEARNING.—

17 (1) APPROVED PROGRAMS OF EDUCATION AT
18 INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGH-
19 ER LEARNING.—Subsection (b) of section 3313 of
20 such title is amended by striking “is offered by an
21 institution of higher learning (as that term is de-
22 fined in section 3452(f)) and”.

23 (2) ASSISTANCE FOR PURSUIT OF PROGRAMS
24 OF EDUCATION AT INSTITUTIONS OTHER THAN IN-

1 STITUTIONS OF HIGHER LEARNING.—Such section is
2 further amended—

3 (A) by redesignating subsections (g) and
4 (h) as subsections (h) and (i), respectively; and
5 (B) by inserting after subsection (f) the
6 following new subsection (g):

7 “(g) PROGRAMS OF EDUCATION PURSUED AT INSTI-
8 TUTIONS OTHER THAN INSTITUTIONS OF HIGHER
9 LEARNING.—

10 “(1) IN GENERAL.—Educational assistance is
11 payable under this chapter for pursuit of an ap-
12 proved program of education at an institution other
13 than an institution of higher learning.

14 “(2) AMOUNT OF ASSISTANCE.—The amounts
15 of educational assistance payable under this chapter
16 to each individual entitled to educational assistance
17 under this chapter who is pursuing an approved pro-
18 gram of education at an institution other than an in-
19 stitution of higher learning (as defined in section
20 3452(f) of this title) are amounts as follows:

21 “(A) In the case of an individual enrolled
22 in a program of education (other than a pro-
23 gram described in subparagraphs (B) through
24 (D)) in pursuit of a certificate or other non-col-
25 lege degree, amounts as follows:

1 “(i) The lesser of—

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

4 “(II) the amount of the average
5 of the established charges at all insti-
6 tutions of higher learning in the
7 United States for a program of edu-
8 cation leading to a baccalaureate de-
9 gree as determined by the National
10 Center for Education Statistics of the
11 Department of Education for the
12 most recent academic year.

13 “(ii) A monthly stipend in an amount
14 equal to the monthly amount of the basic
15 allowance for housing payable under sec-
16 tion 403 of title 37 for a member with de-
17 pendents in pay grade E-5 residing in the
18 military housing area that encompasses all
19 or the majority portion of the ZIP code
20 area in which is located the institution at
21 which the individual is enrolled.

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

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

3 “(I) in the first six-month period
4 of the program, an amount equal to
5 75 percent of $\frac{1}{12}$ of the amount of
6 the average of the established charges
7 at all institutions of higher learning in
8 the United States for a program of
9 education leading to a baccalaureate
10 degree as determined by the National
11 Center for Education Statistics of the
12 Department of Education for the
13 most recent academic year;

14 “(II) in the second six-month pe-
15 riod of the program, an amount equal
16 to 55 percent of $\frac{1}{12}$ of the amount of
17 such average; and

18 “(III) in any month after the
19 first 12 months of such program, an
20 amount equal to 35 percent of $\frac{1}{12}$ of
21 the amount of such average.

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

24 “(I) the monthly amount of the
25 basic allowance for housing payable

1 under section 403 of title 37 for a
2 member with dependents in pay grade
3 E-5 residing in the military housing
4 area that encompasses all or the ma-
5 jority portion of the ZIP code area in
6 which is located the employer at which
7 the individual pursues such program;
8 or

9 “(II) the national average of the
10 monthly amount of the basic allow-
11 ance for housing payable under sec-
12 tion 403 of title 37 for a member with
13 dependents in pay grade E-5.

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

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

19 “(ii) 60 percent of the amount of the
20 average of the established charges at all in-
21 stitutions of higher learning in the United
22 States for a program of education leading
23 to a baccalaureate degree as determined by
24 the National Center for Education Statis-

1 tics of the Department of Education for
2 the most recent academic year.

3 “(D) In the case of an individual enrolled
4 in a program of education that is pursued ex-
5 clusively by correspondence, an amount equal to
6 the lesser of—

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

9 “(ii) 55 percent of the amount of the
10 average of the established charges at all in-
11 stitutions of higher learning in the United
12 States for a program of education leading
13 to a baccalaureate degree as determined by
14 the National Center for Education Statis-
15 tics of the Department of Education for
16 the most recent academic year.

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

22 (3) CONFORMING AMENDMENT.—Subsection (h)
23 of such section 3313, as redesignated by paragraph
24 (2) of this subsection, is amended by striking
25 “(e)(2), and (f)(2)(A)” and inserting “subsections

1 (e)(2) and (f)(2)(A), and subparagraphs (A)(i),
2 (B)(i), (C), and (D) of subsection (g)(2)”.

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

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

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

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

11 (i) by striking “The amount” and in-
12 serting “The amounts”; and

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

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

16 and

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

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

1 “(i) \$1,000, multiplied by

2 “(ii) the fraction which is the portion
3 of a complete academic year under the pro-
4 gram of education that such quarter, se-
5 mester, or term constitutes.”.

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

10 **SEC. 4. MODIFICATION OF ASSISTANCE FOR LICENSURE**
11 **AND CERTIFICATION TESTS.**

12 (a) REPEAL OF LIMITATION ON NUMBER OF REIM-
13 BURSABLE TESTS.—Subsection (a) of section 3315 of title
14 38, United States Code, is amended by striking “one li-
15 censing or certification test” and inserting “licensing or
16 certification tests”.

17 (b) CHARGE OF ENTITLEMENT FOR RECEIPT OF AS-
18 SISTANCE.—Such section is further amended by striking
19 subsection (c) and inserting the following new subsection
20 (c):

21 “(c) CHARGE AGAINST ENTITLEMENT.—The charge
22 against entitlement of an individual under this chapter for
23 payment for a licensing or certification test under sub-
24 section (a) shall be charged at the rate of one month for
25 each amount equal to $\frac{1}{12}$ of the amount of the average

1 of the established charges at all institutions of higher
 2 learning in the United States for a program of education
 3 leading to a baccalaureate degree as determined by the
 4 National Center for Education Statistics of the Depart-
 5 ment of Education for the most recent academic year.”.

6 **SEC. 5. TRANSFER OF ENTITLEMENT TO SUPPLEMENTAL**
 7 **EDUCATIONAL ASSISTANCE TO POST-9/11**
 8 **EDUCATIONAL ASSISTANCE.**

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

11 (1) by redesignating subsection (c) as sub-
 12 section (e); and

13 (2) by inserting after subsection (b) the fol-
 14 lowing new subsection (c):

15 “(c) TRANSFER OF SUPPLEMENTAL EDUCATIONAL
 16 ASSISTANCE.—

17 “(1) IN GENERAL.—An individual entitled to
 18 supplemental educational assistance under sub-
 19 chapter III of chapter 30 of this title may transfer
 20 such entitlement to entitlement for supplemental
 21 educational assistance under this section. Such indi-
 22 vidual shall receive entitlement to one month of sup-
 23 plemental educational assistance under this section
 24 for each month of entitlement to supplemental edu-
 25 cational assistance so transferred.

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

7 “(3) NATURE OF TRANSFERRED ENTITLE-
8 MENT.—An amount of supplemental educational as-
9 sistance transferred under paragraph (1) shall be
10 payable as an increase in the monthly amount of
11 educational assistance otherwise payable to the indi-
12 vidual under paragraph (1)(B) of section 3313(c) of
13 this title, or under paragraphs (2) through (7) of
14 such section 3313(c) (as applicable).”.

15 (b) CLARIFICATION ON REIMBURSEMENT OF IN-
16 CREASED OR SUPPLEMENTAL ASSISTANCE.—Such section
17 is further amended by inserting after subsection (c), as
18 added by subsection (a)(2) of this section, the following
19 new subsection (d):

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

1 **SEC. 6. TRANSFER OF UNUSED EDUCATION BENEFITS TO**
2 **FAMILY MEMBERS.**

3 (a) ADMINISTRATION OF TRANSFERS OF ENTITLE-
4 MENT BY INDIVIDUALS NO LONGER MEMBERS OF THE
5 ARMED FORCES.—Section 3319(h) of title 38, United
6 States Code, is amended—

7 (1) by redesignating paragraph (7) as para-
8 graph (8); and

9 (2) by inserting after paragraph (6) the fol-
10 lowing new paragraph (7):

11 “(7) ADMINISTRATION FOR INDIVIDUALS NO
12 LONGER MEMBERS OF THE ARMED FORCES.—The
13 Secretary of Defense shall administer the provisions
14 of this section with respect to individuals who are
15 discharged or released from the Armed Forces, in-
16 cluding the making of any determinations of eligi-
17 bility of such individuals for transfers of entitlement
18 under this section and the processing of applications
19 to transfer, modify, or revoke entitlement under this
20 section.”.

21 (b) APPLICABILITY OF ENTITLEMENT AUTHORITY
22 TO MEMBERS OF PUBLIC HEALTH SERVICE AND NA-
23 TIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—
24 Section 3319 of such title is amended by striking sub-
25 section (k).

1 (c) REIMBURSEMENT OF EXPENSES OF SECRETARY
2 OF VETERANS AFFAIRS BY SECRETARY CONCERNED.—

3 Such section is further amended by adding at the end the
4 following new subsection (k):

5 “(k) REIMBURSEMENT OF EXPENSES OF SECRETARY
6 OF VETERANS AFFAIRS BY SECRETARY CONCERNED.—

7 Any expense incurred by the Secretary for the provision
8 of educational assistance under subsection (a) to a de-
9 pendent described in such subsection shall be reimbursed
10 by the Secretary concerned.”.

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

14 **SEC. 7. LIMITATIONS ON RECEIPT OF EDUCATIONAL AS-**
15 **SISTANCE UNDER NATIONAL CALL TO SERV-**
16 **ICE AND OTHER PROGRAMS OF EDU-**
17 **CATIONAL ASSISTANCE.**

18 (a) BAR TO DUPLICATION OF EDUCATIONAL ASSIST-
19 ANCE BENEFITS.—Section 3322(a) of title 38, United
20 States Code, is amended by inserting “or section 510”
21 after “or 1607”.

22 (b) LIMITATION ON CONCURRENT RECEIPT OF EDU-
23 CATIONAL ASSISTANCE.—Section 3681(b)(2) of such title
24 is amended by inserting “and section 510” after “and
25 107”.

1 **SEC. 8. APPROVAL OF PROGRAMS OF EDUCATION CON-**
2 **SISTING OF DISTANCE LEARNING.**

3 (a) NONACCREDITED COURSES PURSUED BY DIS-
4 TANCE LEARNING.—Section 3676(e) of title 38, United
5 States Code, is amended by inserting “or distance learn-
6 ing” after “independent study”.

7 (b) DISAPPROVAL OF ENROLLMENT IN NONACCRED-
8 ITED COURSES OF DISTANCE LEARNING.—Section
9 3680A(a)(4) of such title is amended by inserting “or dis-
10 tance learning” after “independent study” each place it
11 appears.

12 (c) RULEMAKING.—Not later than 180 days after the
13 date of the enactment of this Act, the Secretary of Vet-
14 erans Affairs shall prescribe regulations under section
15 3323(c) of such title for the administration and approval
16 of programs of education that consist of distance learning.

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

21 **SEC. 9. INCREASE IN AMOUNT OF REPORTING FEE.**

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

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

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

3 **SEC. 10. AMOUNT OF SUBSISTENCE ALLOWANCE FOR VET-**
4 **ERANS WITH SERVICE-CONNECTED DISABIL-**
5 **ITIES.**

6 Section 3108(b) of title 38, United States Code, is
7 amended by adding at the end the following new para-
8 graph:

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

16 **SEC. 11. REPEAL OF AUTHORITY TO MAKE CERTAIN INTER-**
17 **VAL PAYMENTS.**

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

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

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

24 (3) by striking subparagraph (C).

○