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.

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, admin-
istering, recruiting, instructing, or training
the National Guard; and

“(ii) in the National Guard under sec-
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.”.

(3) Expansion of definition of entry
level and skill training to include one sta-
tion 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 honor-
able 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 pre-
ceding subparagraph (A) by striking “A discharge or re-
lease 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 Part-Time 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 pur-
suing a program of education through dis-
tance 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 in-
dividual were otherwise entitled to a
monthly housing stipend under that clause
for pursuit of the program of education.”.

(e) EDUCATIONAL ASSISTANCE FOR APPROVED PRO-
GRAMS OF EDUCATION AT INSTITUTIONS OTHER THAN
INSTITUTIONS OF HIGHER LEARNING.—

(1) Approved programs of education at
institutions other than institutions of high-
er 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 de-
defined in section 3452(f)) and”.

(2) Assistance for pursuit of programs
of education at institutions other than in-
STITUTIONS 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 non-college 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 insti-
tutions of higher learning in the

United States for a program of edu-
cation leading to a baccalaureate de-
gree 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 sec-
tion 403 of title 37 for a member with de-
pendents 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 $\frac{1}{12}$ 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 pe-
riod of the program, an amount equal
to 55 percent of $\frac{1}{12}$ 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 $\frac{1}{12}$ 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 Statis-
tics 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 ex-
clusively 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 in-
stitutions 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 Statis-
tics 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
(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 pro-

gram of education that such quarter, se-

mester, 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 REIM-

BURSABLE TESTS.—Subsection (a) of section 3315 of title

38, United States Code, is amended by striking “one li-
censing or certification test” and inserting “licensing or
certification tests”.

(b) CHARGE OF ENTITLEMENT FOR RECEIPT OF AS-

SISTANCE.—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 sub-

section (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 Depart-
ment 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 sub-
section (e); and

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

“(c) TRANSFER OF SUPPLEMENTAL EDUCATIONAL
ASSISTANCE.—

“(1) IN GENERAL.—An individual entitled to
supplemental educational assistance under sub-
chapter III of chapter 30 of this title may transfer
such entitlement to entitlement for supplemental
educational assistance under this section. Such indi-
vidual shall receive entitlement to one month of sup-
plemental educational assistance under this section
for each month of entitlement to supplemental edu-
cational 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).