

107TH CONGRESS
1ST SESSION

S. 937

To amend title 38, United States Code, to permit the transfer of entitlement to educational assistance under the Montgomery GI Bill by members of the Armed Forces, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2001

Mr. CLELAND (for himself, Mr. WARNER, Mr. LEVIN, Mr. KENNEDY, Mr. REED, Ms. LANDRIEU, Mrs. CARNAHAN, Mr. DAYTON, Mr. BINGAMAN, and Mr. LIEBERMAN) 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 permit the transfer of entitlement to educational assistance under the Montgomery GI Bill by members of the Armed Forces, 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 “Helping Our Profes-
5 sionals Educationally (HOPE) Act of 2001”.

1 **SEC. 2. TRANSFER OF ENTITLEMENT TO EDUCATIONAL AS-**
 2 **SISTANCE UNDER MONTGOMERY GI BILL BY**
 3 **MEMBERS OF THE ARMED FORCES WITH**
 4 **CRITICAL MILITARY SKILLS.**

5 (a) AUTHORITY TO TRANSFER TO FAMILY MEM-
 6 BERS.—(1) Subchapter II of chapter 30 of title 38, United
 7 States Code, is amended by adding at the end the fol-
 8 lowing new section:

9 **“§ 3020. Transfer of entitlement to basic educational**
 10 **assistance: members of the Armed Forces**
 11 **with critical military skills**

12 “(a) IN GENERAL.—Subject to the provisions of this
 13 section, each Secretary concerned may, for the purpose of
 14 enhancing recruitment and retention of members of the
 15 Armed Forces with critical military skills and at such Sec-
 16 retary’s sole discretion, permit an individual described in
 17 subsection (b) who is entitled to basic educational assist-
 18 ance under this subchapter to elect to transfer, in whole
 19 or in part, up to one-half of such individual’s entitlement
 20 to such assistance to the dependents specified in sub-
 21 section (c).

22 “(b) ELIGIBLE INDIVIDUALS.—An individual re-
 23 ferred to in subsection (a) is any member of the Armed
 24 Forces who, at the time of the approval by the Secretary
 25 concerned of the member’s request to transfer entitlement
 26 to basic educational assistance under this section—

1 “(1) has completed six years of service in the
2 Armed Forces;

3 “(2) either—

4 “(A) has a critical military skill designated
5 by the Secretary concerned for purposes of this
6 section; or

7 “(B) is in a military specialty designated
8 by the Secretary concerned for purposes of this
9 section as requiring critical military skills; and

10 “(3) enters into an agreement to serve at least
11 four more years as a member of the Armed Forces.

12 “(c) ELIGIBLE DEPENDENTS.—An individual ap-
13 proved to transfer an entitlement to basic educational as-
14 sistance under this section may transfer the individual’s
15 entitlement as follows:

16 “(1) To the individual’s spouse.

17 “(2) To one or more of the individual’s chil-
18 dren.

19 “(3) To a combination of the individuals re-
20 ferred to in paragraphs (1) and (2).

21 “(d) LIMITATION ON MONTHS OF TRANSFER.—The
22 total number of months of entitlement transferred by an
23 individual under this section may not exceed 18 months.

1 “(e) DESIGNATION OF TRANSFEREE.—An individual
2 transferring an entitlement to basic educational assistance
3 under this section shall—

4 “(1) designate the dependent or dependents to
5 whom such entitlement is being transferred and the
6 percentage of such entitlement to be transferred to
7 each such dependent; and

8 “(2) specify the period for which the transfer
9 shall be effective for each dependent designated
10 under paragraph (1).

11 “(f) TIME FOR TRANSFER; REVOCATION AND MODI-
12 FICATION.—(1) Subject to the time limitation for use of
13 entitlement under section 3031 of this title, an individual
14 approved to transfer entitlement to basic educational as-
15 sistance under this section may transfer such entitlement
16 at any time after the approval of individual’s request to
17 transfer such entitlement without regard to whether the
18 individual is a member of the Armed Forces when the
19 transfer is executed.

20 “(2)(A) An individual transferring entitlement under
21 this section may modify or revoke at any time the transfer
22 of any unused portion of the entitlement so transferred.

23 “(B) The modification or revocation of the transfer
24 of entitlement under this paragraph shall be made by the

1 submittal of written notice of the action to both the Sec-
 2 retary concerned and the Secretary of Veterans Affairs.

3 “(g) COMMENCEMENT OF USE.—A dependent to
 4 whom entitlement to basic educational assistance is trans-
 5 ferred under this section may not commence the use of
 6 the transferred entitlement until the following:

7 “(1) In the case of entitlement transferred to a
 8 spouse, the completion by the individual making the
 9 transfer of 6 years of service in the Armed Forces.

10 “(2) In the case of entitlement transferred to a
 11 child, both—

12 “(A) the completion by the individual mak-
 13 ing the transfer of 10 years of service in the
 14 Armed Forces; and

15 “(B) either—

16 “(i) the completion by the child of the
 17 requirements of a secondary school di-
 18 ploma (or equivalency certificate); or

19 “(ii) the attainment by the child of 18
 20 years of age.

21 “(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1)
 22 The use of any entitlement to basic educational assistance
 23 transferred under this section shall be charged against the
 24 entitlement of the individual making the transfer at the

1 rate of one month for each month of transferred entitle-
2 ment that is used.

3 “(2) Except as provided under subsection (e)(2) and
4 subject to paragraphs (4) and (5), a dependent to whom
5 entitlement is transferred under this section is entitled to
6 basic educational assistance under this subchapter in the
7 same manner and at the same rate as the individual from
8 whom the entitlement was transferred.

9 “(3) The death of an individual transferring an enti-
10 tlement under this section shall not affect the use of the
11 entitlement by the individual to whom the entitlement is
12 transferred.

13 “(4) Notwithstanding section 3031 of this title, a
14 child to whom entitlement is transferred under this section
15 may not use any entitlement so transferred after attaining
16 the age of 26 years.

17 “(5) The administrative provisions of this chapter
18 (including the provisions set forth in section 3034(a)(1)
19 of this title) shall apply to the use of entitlement trans-
20 ferred under this section, except that the dependent to
21 whom the entitlement is transferred shall be treated as
22 the eligible veteran for purposes of such provisions.

23 “(6) The purposes for which a dependent to whom
24 entitlement is transferred under this section may use such
25 entitlement shall include the pursuit and completion of the

1 requirements of a secondary school diploma (or equiva-
 2 lency certificate).

3 “(i) OVERPAYMENT.—(1) In the event of an overpay-
 4 ment of basic educational assistance with respect to a de-
 5 pendent to whom entitlement is transferred under this sec-
 6 tion, the dependent and the individual making the transfer
 7 shall be jointly and severally liable to the United States
 8 for the amount of the overpayment for purposes of section
 9 3685 of this title.

10 “(2) Except as provided in paragraph (3), if an indi-
 11 vidual transferring entitlement under this section fails to
 12 complete the service agreed to by the individual under sub-
 13 section (b)(3) in accordance with the terms of the agree-
 14 ment of the individual under that subsection, the amount
 15 of any transferred entitlement under this section that is
 16 used by a dependent of the individual as of the date of
 17 such failure shall be treated as an overpayment of basic
 18 educational assistance under paragraph (1).

19 “(3) Paragraph (2) shall not apply in the case of an
 20 individual who fails to complete service agreed to by the
 21 individual—

22 “(A) by reason of the death of the individual;

23 or

24 “(B) for a reason referred to in section
 25 3011(a)(1)(A)(ii)(I) of this title.

1 “(j) APPROVALS OF TRANSFER SUBJECT TO AVAIL-
2 ABILITY OF APPROPRIATIONS.—The Secretary concerned
3 may approve transfers of entitlement to basic educational
4 assistance under this section in a fiscal year only to the
5 extent that appropriations for military personnel are avail-
6 able in the fiscal year for purposes of making transfers
7 of funds under section 2006 of title 10 with respect to
8 such transfers of entitlement.

9 “(k) REGULATIONS.—The Secretary of Defense shall
10 prescribe regulations for purposes of this section. Such
11 regulations shall specify the manner and effect of an elec-
12 tion to modify or revoke a transfer of entitlement under
13 subsection (f)(2), and shall specify the manner of the ap-
14 plicability of the administrative provisions referred to in
15 subsection (h)(5) to a dependent to whom entitlement is
16 transferred under this section.

17 “(l) ANNUAL REPORTS.—(1) Not later than January
18 31, 2003, and each year thereafter, each Secretary con-
19 cerned shall submit to the Committees on Armed Services
20 of the Senate and House of Representatives a report on
21 the transfers of entitlement to basic educational assistance
22 under this section that were approved by such Secretary
23 during the preceding year.

24 “(2) Each report shall set forth—

1 “(A) the number of transfers of entitlement
2 under this section that were approved by such Sec-
3 retary during the preceding year; or

4 “(B) if no transfers of entitlement under this
5 section were approved by such Secretary during that
6 year, a justification for such Secretary’s decision not
7 to approve any such transfers of entitlement during
8 that year.

9 “(m) SECRETARY CONCERNED DEFINED.—Notwith-
10 standing section 101(25) of this title, in this section, the
11 term ‘Secretary concerned’ means—

12 “(1) the Secretary of the Army with respect to
13 matters concerning the Army;

14 “(2) the Secretary of the Navy with respect to
15 matters concerning the Navy or the Marine Corps;

16 “(3) the Secretary of the Air Force with respect
17 to matters concerning the Air Force; and

18 “(4) the Secretary of the Defense with respect
19 to matters concerning the Coast Guard, or the Sec-
20 retary of Transportation when it is not operating as
21 a service in the Navy.”.

22 (2) The table of sections at the beginning of such
23 chapter is amended by inserting after the item relating
24 to section 3019 the following new item:

 “3020. Transfer of entitlement to basic educational assistance: members of the
 Armed Forces with critical military skills.”.

1 (b) TREATMENT UNDER DEPARTMENT OF DEFENSE
 2 EDUCATION BENEFITS FUND.—Section 2006(b)(2) of
 3 title 10, United States Code, is amended by adding at the
 4 end the following:

5 “(D) The present value of the future bene-
 6 fits payable from the Fund as a result of trans-
 7 fers under section 3020 of title 38 of entitle-
 8 ment to basic educational assistance under
 9 chapter 30 of title 38.”.

10 (c) PLAN FOR IMPLEMENTATION.—Not later than
 11 June 30, 2002, the Secretary of Defense shall submit to
 12 Congress a report describing the manner in which the Sec-
 13 retaries of the military departments and the Secretary of
 14 Transportation propose to exercise the authority granted
 15 by section 3020 of title 38, United States Code, as added
 16 by subsection (a).

17 **SEC. 3. AUTHORITY FOR ACCELERATED PAYMENTS OF**
 18 **BASIC EDUCATIONAL ASSISTANCE UNDER**
 19 **MONTGOMERY GI BILL.**

20 (a) IN GENERAL.—Section 3014 of title 38, United
 21 States Code, is amended by adding at the end the fol-
 22 lowing new subsection:

23 “(c)(1)(A) Notwithstanding any other provision of
 24 this chapter and subject to subparagraph (B), an indi-
 25 vidual entitled to basic educational assistance under this

1 subchapter may elect to receive an accelerated payment
2 of the basic educational assistance allowance.

3 “(B) The Secretary may not make an accelerated
4 payment for a course to an individual who has received
5 an advance payment under section 3680(d) of this title
6 for the same enrollment period.

7 “(2)(A) Pursuant to an election under paragraph (1),
8 the Secretary shall make an accelerated payment to an
9 individual for a course in a lump-sum amount equal to
10 the lesser of—

11 “(i) the amount of the educational assistance
12 allowance for the month, or fraction thereof, in
13 which the course begins plus the educational assist-
14 ance allowance for each of the succeeding four
15 months; or

16 “(ii)(I) in the case of a course offered on a
17 quarter, semester, or term basis, the amount of ag-
18 gregate monthly educational assistance allowance
19 otherwise payable under this subchapter for the
20 course for the entire quarter, semester, or term; or

21 “(II) in the case of a course that is not offered
22 on a quarter, semester, or term basis, the amount of
23 aggregate monthly educational assistance allowance
24 otherwise payable under this subchapter for the en-
25 tire course.

1 “(B) In the case of an adjustment under section
2 3015(h) of this title in the monthly rate of basic edu-
3 cational assistance that occurs during a period for which
4 an accelerated payment is made under this subsection, the
5 Secretary shall pay—

6 “(i) on an accelerated basis the amount of the
7 allowance otherwise payable under this subchapter
8 for the period without regard to the adjustment
9 under that section; and

10 “(ii) on the date of the adjustment any addi-
11 tional amount of the allowance that is payable for
12 the period as a result of the adjustment.

13 “(3) For each accelerated payment made to an indi-
14 vidual under this subsection, the individual’s entitlement
15 under this subchapter shall be charged at the same rate
16 at which the entitlement would be charged if the individual
17 had received a monthly educational assistance allowance
18 for the period of educational pursuit covered by the accel-
19 erated payment.

20 “(4) The Secretary shall prescribe regulations to
21 carry out this subsection. The regulations shall include the
22 requirements, conditions, and methods for the request,
23 issuance, delivery, certification of receipt and use, and re-
24 covery of overpayment of an accelerated payment under
25 this subsection.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) shall take effect on the date that is six
 3 months after the date of the enactment of this Act, and
 4 shall apply with respect to courses of education beginning
 5 on or after that date.

6 **SEC. 4. AVAILABILITY OF MONTGOMERY GI BILL BENEFITS**
 7 **FOR TRAINING FOR TECHNOLOGICAL OCCU-**
 8 **PATIONS OFFERED BY ENTITIES OTHER**
 9 **THAN EDUCATIONAL INSTITUTIONS.**

10 (a) IN GENERAL.—Section 3452(c) of title 38,
 11 United States Code, is amended to read as follows:

12 “(c) The term ‘educational institution’ means the fol-
 13 lowing:

14 “(1) Any public or private elementary school,
 15 secondary school, vocational school, correspondence
 16 school, business school, junior college, teachers’ col-
 17 lege, college, normal school, professional school, uni-
 18 versity, or scientific or technical institution, or other
 19 institution furnishing education for adults.

20 “(2) Any entity that provides training required
 21 for completion of any State-approved alternative
 22 teacher certification program (as determined by the
 23 Secretary).

24 “(3) Any entity that provides, either directly or
 25 under an agreement with another entity, a course or

1 courses to fulfill the requirements for the attainment
 2 of a license or certificate generally recognized as
 3 necessary to obtain, maintain, or advance in employ-
 4 ment in a vocation or profession in a technological
 5 occupation (as defined by the Secretary).”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 subsection (a) shall take effect on October 1, 2001, and
 8 shall apply with respect to training courses, approved by
 9 the Secretary of Veterans Affairs, for certification for
 10 technological occupations beginning on or after that date.

11 **SEC. 5. MODIFICATION OF TIME FOR USE BY CERTAIN**
 12 **MEMBERS OF SELECTED RESERVE OF ENTI-**
 13 **TLEMENT TO CERTAIN EDUCATIONAL AS-**
 14 **SISTANCE.**

15 Section 16133(b) of title 10, United States Code, is
 16 amended by adding at the end the following new para-
 17 graph:

18 “(5)(A) In the case of a person who continues to
 19 serve as member of the Selected Reserve as of the end
 20 of the 10-year period applicable to the person under sub-
 21 section (a), as extended, if at all, under paragraph (4),
 22 the period during which the person may use the person’s
 23 entitlement shall expire at the end of the 5-year period
 24 beginning on the date the person is separated from the
 25 Selected Reserve.

1 “(B) Subparagraph (A) shall not apply with respect
2 to an individual otherwise described by that subparagraph
3 who is separated from the armed forces under other than
4 honorable conditions.

5 “(C) The provisions of paragraph (4) shall apply with
6 respect to any period of active duty of a person referred
7 to in subparagraph (A) during the 5-year period referred
8 to in that subparagraph.”.

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