

108TH CONGRESS  
2D SESSION

# H. R. 5081

To amend title 10, United States Code, to provide for a new program of educational assistance for certain reserve component members of the Armed Forces who perform active service.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2004

Mr. BEAUPREZ (for himself and Mr. SWEENEY) introduced the following bill;  
which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to provide for a new program of educational assistance for certain reserve component members of the Armed Forces who perform active service.

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. EDUCATIONAL ASSISTANCE FOR CERTAIN RE-**  
4                       **SERVE COMPONENT MEMBERS WHO PER-**  
5                       **FORM ACTIVE SERVICE.**

6       (a) ESTABLISHMENT OF PROGRAM.—Part IV of sub-  
7       title E of title 10, United States Code, is amended by in-  
8       serting after chapter 1606 the following new chapter:

1 **“CHAPTER 1607—EDUCATIONAL ASSIST-**  
 2 **ANCE FOR RESERVE COMPONENT**  
 3 **MEMBERS SUPPORTING CONTIN-**  
 4 **GENCY OPERATIONS AND CERTAIN**  
 5 **OTHER OPERATIONS**

“Sec.

“16161. Purpose.

“16162. Educational assistance program.

“16163. Eligibility for educational assistance.

“16164. Time limitation for use of entitlement.

“16165. Termination of assistance.

“16166. Administration of program.

6 **“§ 16161. Purpose**

7 “The purpose of this chapter is to provide educational  
 8 assistance to members of the reserve components who have  
 9 been called or ordered to active service in response to a  
 10 war or national emergency declared by the President or  
 11 the Congress, in recognition of the sacrifices that those  
 12 members make in answering the call to duty.

13 **“§ 16162. Educational assistance program**

14 “(a) PROGRAM ESTABLISHMENT.— The Secretary of  
 15 each military department, under regulations prescribed by  
 16 the Secretary of Defense, and the Secretary of Homeland  
 17 Security with respect to the Coast Guard when it is not  
 18 operating as a service in the Navy, shall establish and  
 19 maintain a program as prescribed in this chapter to pro-  
 20 vide educational assistance to members of the Ready Re-  
 21 serve of the armed forces under the jurisdiction of the Sec-  
 22 retary concerned.

1       “(b) AUTHORIZED EDUCATION PROGRAMS.—Edu-  
2       cational assistance may be provided under this chapter for  
3       pursuit of any program of education that is an approved  
4       program of education for purposes of chapter 30 of title  
5       38.

6       “(c) BENEFIT AMOUNT.—(1) The educational assist-  
7       ance program established under subsection (a) shall pro-  
8       vide for payment by the Secretary concerned, through the  
9       Secretary of Veterans Affairs, an educational assistance  
10      allowance to each member entitled to educational assist-  
11      ance under this chapter who is pursuing a program of edu-  
12      cation authorized under subsection (b).

13      “(2) The educational assistance allowance provided  
14      under this chapter shall be based on the applicable percent  
15      under paragraph (4) to the applicable rate provided under  
16      section 3015 of title 38 for a member whose entitlement  
17      is based on completion of an obligated period of active  
18      duty of three years.

19      “(3) The educational assistance allowance provided  
20      under this section for a person who is undertaking a pro-  
21      gram for which a reduced rate is specified in chapter 30  
22      of title 38, that rate shall be further adjusted by the appli-  
23      cable percent specified in paragraph (4).

24      “(4) The adjusted educational assistance allowance  
25      under paragraph (2) or (3), as applicable, shall be—

1           “(A) 40 percent in the case of a member of a  
2       reserve component who performed active service for  
3       90 consecutive days but less than one continuous  
4       year;

5           “(B) 60 percent in the case of a member of a  
6       reserve component who performed active service for  
7       one continuous year but less than two continuous  
8       years; or

9           “(C) 80 percent in the case of a member of a  
10      reserve component who performed active service for  
11      two continuous years or more.

12      “(d) MAXIMUM MONTHS OF ASSISTANCE.—(1) Sub-  
13      ject to section 3695 of title 38, the maximum number of  
14      months of educational assistance that may be provided to  
15      any member under this chapter is 36 (or the equivalent  
16      thereof in part-time educational assistance).

17      “(2)(A) Notwithstanding any other provision of this  
18      chapter or chapter 36 of title 38, any payment of an edu-  
19      cational assistance allowance described in subparagraph  
20      (B) of this paragraph shall not—

21           “(i) be charged against the entitlement of any  
22      individual under this chapter; or

23           “(ii) be counted toward the aggregate period for  
24      which section 3695 of title 38 limits an individual’s  
25      receipt of assistance.

1       “(B) The payment of the educational assistance al-  
2       lowance referred to in subparagraph (A) of this paragraph  
3       is the payment of such an allowance to the individual for  
4       pursuit of a course or courses under this chapter if the  
5       Secretary of Veterans Affairs finds that the individual—

6               “(i) had to discontinue such course pursuit as  
7       a result of being ordered to serve on active duty  
8       under section 12301(a), 12301(d), 12301(g), 12302,  
9       or 12304 of this title; and

10              “(ii) failed to receive credit or training time to-  
11       ward completion of the individual’s approved edu-  
12       cational, professional, or vocational objective as a re-  
13       sult of having to discontinue, as described in clause  
14       (i), the individual’s course pursuit.

15       “(C) The period for which, by reason of this sub-  
16       section, an educational assistance allowance is not charged  
17       against entitlement or counted toward the applicable ag-  
18       gregate period under section 3695 of title 38 shall not ex-  
19       ceed the portion of the period of enrollment in the course  
20       or courses for which the individual failed to receive credit  
21       or with respect to which the individual lost training time,  
22       as determined under subparagraph (B)(ii).

1 **“§ 16163. Eligibility for educational assistance**

2 “(a) ELIGIBILITY.—On or after September 11, 2001,  
3 a member of a reserve component is entitled to educational  
4 assistance under this chapter if the member—

5 “(1) served on active duty in support of a con-  
6 tingency operation for 90 consecutive days or more;  
7 or

8 “(2) in the case of a member of the Army Na-  
9 tional Guard of the United States or Air National  
10 Guard of the United States, performed full time Na-  
11 tional Guard duty under section 502(f) of title 32  
12 for 90 consecutive days or more when authorized by  
13 the President or Secretary of Defense for the pur-  
14 pose of responding to a national emergency declared  
15 by the President and supported by Federal funds.

16 “(b) DISABLED MEMBERS.—Notwithstanding the eli-  
17 gibility requirements in subsection (a), a member who was  
18 ordered to active service as prescribed under subsection  
19 (a)(1) or (a)(2) but is released from duty before com-  
20 pleting 90 consecutive days because of an injury, illness  
21 or disease incurred or aggravated in the line of duty shall  
22 be entitled to educational assistance under this chapter at  
23 the rate prescribed in section 16162(b)(2)(A) of this title.

24 “(c) WRITTEN NOTIFICATION.—(1) Each member  
25 who becomes entitled to educational assistance under sub-  
26 section (a) shall be given a statement in writing prior to

1 release from active service that summarizes the provisions  
2 of this chapter and stating clearly and prominently the  
3 substance of sections 16165 and 16166 of this title as  
4 such sections may apply to the member.

5 “(2) At the request of the Secretary of Veterans Af-  
6 fairs, the Secretary concerned shall transmit a notice of  
7 entitlement for each such member to that Secretary.

8 “(d) BAR FROM DUAL ELIGIBILITY.—A member who  
9 qualifies for educational assistance under this chapter may  
10 not receive credit for such service under both the program  
11 established by chapter 30 of title 38 and the program es-  
12 tablished by this chapter but shall make an irrevocable  
13 election (in such form and manner as the Secretary of Vet-  
14 erans Affairs may prescribe) as to the program to which  
15 such service is to be credited.

16 “(e) BAR FROM DUPLICATION OF EDUCATIONAL AS-  
17 SISTANCE ALLOWANCE.—(1) Except as provided in para-  
18 graph (2), an individual entitled to educational assistance  
19 under this chapter who is also eligible for educational as-  
20 sistance under chapter 1606 of this title, chapter 30, 31,  
21 32, or 35 of title 38, or under the Hostage Relief Act of  
22 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not  
23 receive assistance under more than one such programs and  
24 shall elect (in such form and manner as the Secretary con-

cerned may prescribe) under which program the member elects to receive educational assistance.

“(2) The restriction on duplication of educational assistance under paragraph (1) does not apply to the entitlement of educational assistance under section 16131(i) of this title.

**“§ 16164. Time limitation for use of entitlement**

“(a) DURATION OF ENTITLEMENT.—Except as provided in subsection (b), a member remains entitled to educational assistance under this chapter while serving—

“(1) in the Selected Reserve of the Ready Reserve, in the case of a member was called or ordered to active service while serving in the Selected Reserve; or

“(2) in the Ready Reserve, in the case of a member was ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve).

“(b) DURATION OF ENTITLEMENT FOR DISABLED MEMBERS.—(1) In the case of a person who is separated from the Ready Reserve because of a disability which was not the result of the individual’s own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, such person’s entitlement to educational assistance expires at



1 the end of the 10-year period beginning on the date on  
 2 which such person became entitled to such assistance.

3 “(2) The provisions of subsections (d) and (f) of sec-  
 4 tion 3031 of title 38 shall apply to the period of entitle-  
 5 ment prescribed by paragraph (1).

6 **“§ 16165. Termination of assistance**

7 “Educational assistance may not be provided under  
 8 this chapter, or if being provided under this chapter, shall  
 9 be terminated—

10 “(1) if the member is receiving financial assist-  
 11 ance under section 2107 of this title as a member  
 12 of the Senior Reserve Officers’ Training Corps pro-  
 13 gram; or

14 “(2) when the member separates from the  
 15 Ready Reserve, as provided under section  
 16 16164(a)(1) or section 16164(a)(2), as applicable, of  
 17 this title.

18 **“§ 16166. Administration of program**

19 “(a) ADMINISTRATION.—Educational assistance  
 20 under this chapter shall be provided through the Depart-  
 21 ment of Veterans Affairs, under agreements to be entered  
 22 into by the Secretary of Defense, and by the Secretary  
 23 of Homeland Security, with the Secretary of Veterans Af-  
 24 fairs. Such agreements shall include administrative proce-  
 25 dures to ensure the prompt and timely transfer of funds

1 from the Secretary concerned to the Department of Vet-  
2 erans Affairs for the making of payments under this chap-  
3 ter.

4 “(b) PROGRAM MANAGEMENT.—Except as otherwise  
5 provided in this chapter, the provisions of sections 503,  
6 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485  
7 of title 38 and the provisions of subchapters I and II of  
8 chapter 36 of such title (with the exception of sections  
9 3686(a), 3687, and 3692) shall be applicable to the provi-  
10 sion of educational assistance under this chapter. The  
11 term ‘eligible veteran’ and the term ‘person’, as used in  
12 those provisions, shall be deemed for the purpose of the  
13 application of those provisions to this chapter to refer to  
14 a person eligible for educational assistance under this  
15 chapter.

16 “(c) FLIGHT TRAINING.—The Secretary of Veterans  
17 Affairs may approve the pursuit of flight training (in addi-  
18 tion to a course of flight training that may be approved  
19 under section 3680A(b) of title 38) by an individual enti-  
20 tled to educational assistance under this chapter if—

21 “(1) such training is generally accepted as nec-  
22 essary for the attainment of a recognized vocational  
23 objective in the field of aviation;

24 “(2) the individual possesses a valid private  
25 pilot certificate and meets, on the day the member

1 begins a course of flight training, the medical re-  
2 quirements necessary for a commercial pilot certifi-  
3 cate; and

4 “(3) the flight school courses meet Federal  
5 Aviation Administration standards for such courses  
6 and are approved by the Federal Aviation Adminis-  
7 tration and the State approving agency.

8 “(d) TRUST FUND.—Amounts for payments for bene-  
9 fits under this chapter shall be derived from the Depart-  
10 ment of Defense Education Benefits Fund under section  
11 2006 of this title.”.

12 (b) CONFORMING AMENDMENTS.—(1) Section  
13 2006(b) of such title is amended—

14 (A) in paragraph (1), by striking “chapter  
15 1606” and inserting “chapters 1606 and 1607, in-  
16 cluding funds provided by the Secretary of Home-  
17 land Security for education liabilities for the Coast  
18 Guard when it is not operating as a service in the  
19 Department of the Navy”; and

20 (B) in paragraph (2)(C), by striking “for edu-  
21 cational assistance under chapter 1606” and insert-  
22 ing “(including funds from the Department in which  
23 the Coast Guard is operating) for educational assist-  
24 ance under chapters 1606 and 1607”.

1       (2) Section 3695(a)(5) of title 38, United States  
 2 Code, is amended by inserting “1607,” after “1606,”.

3       (c) CLERICAL AMENDMENT.—The tables of chapters  
 4 at the beginning of subtitle E of title 10, United States  
 5 Code, and at the beginning of part IV of such subtitle,  
 6 are amended by inserting after the item relating to chap-  
 7 ter 1606 the following new item:

“1607. Educational Assistance for Reserve Component Members Sup-  
       porting Contingency Operations and Certain Other  
       Operations ..... 16161”.

