

110TH CONGRESS  
2D SESSION

# S. 2575

To amend title 38, United States Code, to remove certain limitations on the transfer of entitlement to basic educational assistance under Montgomery GI Bill, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2008

Mrs. HUTCHISON (for herself, Mr. CORNYN, Mr. JOHNSON, Ms. MIKULSKI, Mr. DOMENICI, Mr. SUNUNU, Mr. COLEMAN, Mr. BAYH, Mr. INHOFE, Mr. ROBERTS, Mrs. LINCOLN, Mr. GRAHAM, Mr. STEVENS, Ms. MURKOWSKI, Mr. CARDIN, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To amend title 38, United States Code, to remove certain limitations on the transfer of entitlement to basic educational assistance under Montgomery GI Bill, 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 “Montgomery GI Bill  
5   Educational Assistance Transferability Act of 2008”.

1 **SEC. 2. REMOVAL OF CERTAIN LIMITATIONS ON TRANSFER**  
 2 **OF ENTITLEMENT TO BASIC EDUCATIONAL**  
 3 **ASSISTANCE.**

4 (a) IN GENERAL.—Section 3020 of title 38, United  
 5 States Code, is amended—

6 (1) in the heading, by striking “: **members**  
 7 **of the Armed Forces with critical military**  
 8 **skills**”;

9 (2) in subsection (a)—

10 (A) by striking “with critical military skills  
 11 and at such Secretary’s sole discretion”; and

12 (B) by striking “, subject to the limitation  
 13 under subsection (d)”;

14 (3) in subsection (b)—

15 (A) in paragraph (1), by striking the semi-  
 16 colon at the end and inserting “; and”;

17 (B) by striking paragraph (2); and

18 (C) by redesignating paragraph (3) as  
 19 paragraph (2);

20 (4) by striking subsection (d); and

21 (5) by redesignating subsections (e) through  
 22 (m) as subsections (d) through (l), respectively.

23 (b) CONFORMING AMENDMENTS.—Such section is  
 24 further amended—

25 (1) in subsection (g)(2), as redesignated by sub-  
 26 section (a)(5) of this section, by striking “under sub-

1 section (e)(2)” and inserting “under subsection  
2 (d)(2)”;

3 (2) in subsection (h)(2), as redesignated by  
4 subsection (a)(5) of this section, by striking “under  
5 subsection (b)(3)” and inserting “under subsection  
6 (b)(2)”;

7 (3) in subsection (j), as redesignated by sub-  
8 section (a)(5) of this section—

9 (A) by striking “under subsection (f)(2)”  
10 and inserting “under subsection (e)(2)”;

11 (B) by striking “in subsection (h)(5)” and  
12 inserting “in subsection (g)(5)”.

13 (c) CLERICAL AMENDMENT.—The table of sections  
14 at the beginning of chapter 30 of such title is amended  
15 by amending the item relating to section 3020 to read as  
16 follows:

“3020. Transfer of entitlement to basic educational assistance.”.

17 **SEC. 3. TRANSFER OF ENTITLEMENT TO EDUCATIONAL AS-**  
18 **SISTANCE UNDER THE RESERVE MONT-**  
19 **GOMERY GI BILL.**

20 (a) SELECTED RESERVE.—

21 (1) IN GENERAL.—Chapter 1606 of title 10,  
22 United States Code, is amended by adding at the  
23 end the following new section:

1   **“§ 16138. Transfer of entitlement to educational as-**  
 2                                   **sistance**

3           “(a) IN GENERAL.—An individual described in sub-  
 4 section (b) who is entitled to educational assistance under  
 5 this chapter may elect to transfer to one or more of the  
 6 dependents specified in subsection (c) a portion of such  
 7 individual’s entitlement to such assistance. An individual  
 8 transferring entitlement under this section shall submit  
 9 written notice to the Secretary concerned not later than  
 10 the expiration date of the period described in section  
 11 16133 of this title that is applicable to such individual.

12           “(b) ELIGIBLE INDIVIDUALS.—An individual re-  
 13 ferred to in subsection (a) is any member of the armed  
 14 forces who, at the time of the approval by the Secretary  
 15 concerned of the member’s request to transfer entitlement  
 16 to basic educational assistance under this section—

17                   “(1) has completed six years of service in the  
 18           Selected Reserve; and

19                   “(2) enters into an agreement to remain a  
 20           member of the Selected Reserve for a period of not  
 21           less than four years.

22           “(c) ELIGIBLE DEPENDENTS.—An individual may  
 23 transfer entitlement under this section as follows:

24                   “(1) To the individual’s spouse.

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

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

3           “(d) DESIGNATION OF TRANSFEREE.—An individual  
4           transferring entitlement under this section shall—

5           “(1) designate the dependent or dependents to  
6           whom such entitlement is being transferred;

7           “(2) designate the number of months of such  
8           entitlement to be transferred to each such depend-  
9           ent; and

10           “(3) specify the period for which the transfer  
11           shall be effective for each such dependent.

12           “(e) REVOCATION AND MODIFICATION.—An indi-  
13           vidual transferring entitlement under this section may  
14           modify or revoke at any time the transfer of any unused  
15           portion of the entitlement so transferred. The modification  
16           or revocation of the transfer of entitlement under this sub-  
17           section shall be made by the submittal of written notice  
18           of the action to both the Secretary concerned and the Sec-  
19           retary of Veterans Affairs.

20           “(f) COMMENCEMENT OF USE.—If the dependent to  
21           whom entitlement is transferred under this section is a  
22           child, the use of the transferred entitlement may not com-  
23           mence until the child—

24           “(1) completes the requirements of a secondary  
25           school diploma (or equivalency certificate); or

1 “(2) attains 18 years of age.

2 “(g) TIME LIMITATION FOR USE OF ELIGIBILITY  
3 AND ENTITLEMENT.—Notwithstanding section 16133 of  
4 this title, and subject to subsection (d)(3), a dependent  
5 to whom entitlement is transferred under this section may  
6 use such entitlement until the later of—

7 “(1) the expiration date of a 15-year period be-  
8 ginning on the date on which the individual who  
9 transferred such entitlement to the dependent be-  
10 comes entitled to such assistance; and

11 “(2) the date that is 10 years after the date the  
12 individual who transferred such entitlement to the  
13 dependent is separated from the Selected Reserve.

14 “(h) ADDITIONAL ADMINISTRATIVE MATTERS.—

15 “(1) USE OF ENTITLEMENT CHARGED TO  
16 TRANSFERRING INDIVIDUAL.—The use of any enti-  
17 tlement transferred under this section shall be  
18 charged against the entitlement of the individual  
19 making the transfer at the rate of one month for  
20 each month of transferred entitlement that is used.

21 “(2) ENTITLEMENT TO ASSISTANCE.—Except  
22 as provided under paragraphs (2) and (3) of sub-  
23 section (d) and subsection (g), and subject to para-  
24 graph (5), a dependent to whom entitlement is  
25 transferred under this section is entitled to edu-

1 cational assistance under this chapter in the same  
2 manner as the individual from whom entitlement  
3 was transferred.

4 “(3) MONTHLY RATE OF EDUCATION ASSIST-  
5 ANCE PAYABLE.—The monthly rate of educational  
6 assistance payable to a dependent to whom entitle-  
7 ment is transferred under this section shall be the  
8 monthly amount payable under section 16131 of this  
9 title to the individual making the transfer.

10 “(4) USE OF TRANSFERRED ENTITLEMENT NOT  
11 AFFECTED BY DEATH OF TRANSFEROR.—The death  
12 of an individual transferring entitlement under this  
13 section shall not affect the use of the transferred en-  
14 titlement by the dependent to whom entitlement is  
15 transferred.

16 “(5) AGE LIMITATION.—Notwithstanding sub-  
17 section (g) and section 16133 of this title, a child to  
18 whom entitlement is transferred under this section  
19 may not use any entitlement so transferred after at-  
20 taining the age of 26 years.

21 “(6) TRANSFERABILITY TO NON-CHILD OF EN-  
22 TITLEMENT FOR PURPOSE OF SECONDARY SCHOOL  
23 DIPLOMA.—Except as provided in subsection (f), the  
24 purposes for which a dependent to whom entitlement  
25 is transferred under this section may use such enti-

1        tlement shall include the pursuit and completion of  
2        the requirements of a secondary school diploma (or  
3        equivalency certificate).

4        “(i) OVERPAYMENT.—In the event of an overpayment  
5        of basic educational assistance with respect to a dependent  
6        to whom entitlement is transferred under this section, the  
7        dependent and the individual making the transfer shall be  
8        jointly and severally liable to the United States for the  
9        amount of the overpayment for purposes of section 3685  
10       of title 38.

11       “(j) REGULATIONS.—The Secretaries concerned shall  
12       prescribe regulations for purposes of this section.

13       “(k) SECRETARY CONCERNED DEFINED.—Notwith-  
14       standing section 101(a)(9) of this title, in this section the  
15       term ‘Secretary concerned’ means—

16                “(1) the Secretary of the Army with respect to  
17       matters concerning the Army;

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

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

22                “(4) the Secretary of Defense with respect to  
23       matters concerning the Coast Guard, or the Sec-  
24       retary of Homeland Security when it is not oper-  
25       ating as a service in the Navy.”.



1           (2) CLERICAL AMENDMENT.—The table of sec-  
 2           tions at the beginning of such chapter is amended  
 3           by adding at the end the following new item:

“16138. Transfer of entitlement to educational assistance.”.

4           (b) CONFORMING AMENDMENTS.—

5           (1) TIME LIMITATION.—Section 16133(a) of  
 6           such title is amended by inserting “and section  
 7           16138 of this title” after “subsection (b)”.

8           (2) BIENNIAL REPORT.—Section 16137 of such  
 9           title is amended by inserting after the second sen-  
 10          tence the following: “Each such report shall also in-  
 11          clude the number of members of the Selected Re-  
 12          serve of the Ready Reserve of each armed force  
 13          transferring entitlement to educational assistance  
 14          under section 16138.”.

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