

111TH CONGRESS
2^D SESSION

H. R. 6430

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 HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2010

Mr. MINNICK introduced the following bill; which was 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 Improvement 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; or

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.”.

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

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

1 (c) EXCLUSION OF PERIOD OF SERVICE ON ACTIVE
 2 DUTY OF PERIODS OF SERVICE IN CONNECTION WITH
 3 ATTENDANCE AT THE COAST GUARD ACADEMY.—

4 (1) IN GENERAL.—Section 3311(d)(2) of such
 5 title is amended by inserting “or section 182 of title
 6 14” before the period at the end.

7 (2) EFFECTIVE DATE.—The amendment made
 8 by paragraph (1) shall take effect on the date of the
 9 enactment of this Act and apply with respect to a
 10 person who, as of the date of the enactment of this
 11 Act, has not been issued a certificate of eligibility by
 12 the Secretary of Veterans Affairs for purposes of the
 13 educational assistance program under chapter 33 of
 14 title 38, United States Code.

15 **SEC. 3. MODIFICATION OF AMOUNT OF ASSISTANCE AND**
 16 **TYPES OF APPROVED PROGRAMS OF EDU-**
 17 **CATION.**

18 (a) AMOUNT OF EDUCATIONAL ASSISTANCE.—Sec-
 19 tion 3313 of title 38, United States Code, is amended—

20 (1) in subsection (c)—

21 (A) in the matter preceding paragraph (1)
 22 by inserting “at an institution of higher learn-
 23 ing (as defined in section 3452(f) of this title)
 24 not including flight training, correspondence

1 courses, apprenticeship programs or on-job
2 training” after “program of education”; and

3 (B) in paragraph (1), by amending sub-
4 paragraph (A) to read as follows:

5 “(A) An amount equal to—

6 “(i) in the case that such institution
7 is a public institution of higher learning,
8 the established charges regularly charged
9 in-State students for that program of edu-
10 cation; and

11 “(ii) in the case that such institution
12 is a non-public or foreign institution of
13 higher learning, the lesser of—

14 “(I) the established charges for
15 the program of education; or

16 “(II) \$17,300 for each academic
17 year; or

18 “(iii) for the period beginning on Au-
19 gust 1, 2011, and ending August 1, 2015,
20 in the case of a program of education pur-
21 sued by an eligible individual enrolled prior
22 to August 1, 2011, at a nonpublic institu-
23 tion of higher learning that is—

1 “(I) located in a State where the
2 maximum 2010–11 tuition rate ex-
3 ceeded \$700/credit hour; and

4 “(II) the annual amount of es-
5 tablished charges for that academic
6 year is greater than \$17,300, the less-
7 er of—

8 “(aa) the established
9 charges for the program of edu-
10 cation; or

11 “(bb) the amount of estab-
12 lished charges payable to such el-
13 igible individual based on the
14 ‘Post-9/11 GI Bill 2010–2011
15 Tuition and Fee In-State Maxi-
16 mums’ as published in the Fed-
17 eral Register on October 27,
18 2010.”; and

19 (2) by redesignating subsection (h) as sub-
20 section (i); and

21 (3) by adding at the end the following new sub-
22 section:

23 “(h) ANNUAL INCREASE IN CERTAIN AMOUNTS.—

24 “(1) IN GENERAL.—On August 1 of each year,
25 the Secretary shall provide an increase in the

1 amount in effect under subsection (c)(1)(A)(ii)(II)
2 equal to the percentage by which—

3 “(A) the average cost of undergraduate
4 tuition in the United States, as determined by
5 the National Center for Education Statistics,
6 for the last academic year preceding the begin-
7 ning of the fiscal year for which the increase is
8 made, exceeds

9 “(B) the average cost of undergraduate
10 tuition in the United States, as so determined,
11 for the academic year preceding the academic
12 year described in subparagraph (A).

13 “(2) APPLICABILITY.—Any increase under
14 paragraph (1) shall only apply to academic terms be-
15 ginning on or after the date on which the increase
16 is made and shall be rounded to the nearest whole
17 dollar amount.”.

18 (b) MODIFICATION OF AMOUNT OF MONTHLY STI-
19 PENDS, INCLUDING STIPENDS FOR PART-TIME STUDY,
20 DISTANCE LEARNING, AND PURSUIT OF PROGRAMS OF
21 EDUCATION AT FOREIGN INSTITUTIONS OF HIGHER
22 LEARNING.—Subparagraph (B) of section 3313(c)(1) of
23 such title is amended—

24 (1) by redesignating clause (ii) as clause (iv);
25 and

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

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

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

18 “(II) in the case of an individual
19 enrolled in a program of education—

20 “(aa) at a rate of pursuit of
21 100 percent or greater, 100 per-
22 cent;

23 “(bb) at a rate of pursuit of
24 75 percent or greater, 75 per-
25 cent; or

1 “(cc) at a rate of pursuit of
2 greater than 50 percent but less
3 than 75 percent, 50 percent.

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

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

16 “(II) in the case of an individual
17 enrolled in a program of education—

18 “(aa) at a rate of pursuit of
19 100 percent or greater, 100 per-
20 cent;

21 “(bb) at a rate of pursuit of
22 75 percent or greater, 75 per-
23 cent; or

1 “(cc) at a rate of pursuit of
2 greater than 50 percent but less
3 than 75 percent, 50 percent.

4 “(iii) In the case of an individual pur-
5 suing a program of education through dis-
6 tance learning, a monthly housing stipend
7 amount in an amount equal to the product
8 of 50 percent of the national average of
9 the monthly amount of the basic allowance
10 for housing payable under section 403 of
11 title 37 for a member with dependents in
12 pay grade E-5, multiplied by—

13 “(I) in the case of an individual
14 enrolled in a program of education at
15 a rate of pursuit of 100 percent or
16 greater, 100 percent;

17 “(II) in the case of an individual
18 enrolled in a program of education at
19 a rate of pursuit of 75 percent or
20 greater, 75 percent; or

21 “(III) in the case of an individual
22 enrolled in a program of education at
23 a rate of pursuit of greater than 50
24 percent.”.

1 (c) APPROVED PROGRAMS OF EDUCATION AT INSTI-
2 TUTIONS OTHER THAN INSTITUTIONS OF HIGHER
3 LEARNING.—Section 3313 of such title is amended—

4 (1) by striking subsection (b) and inserting the
5 following new subsection (b):

6 “(b) APPROVED PROGRAMS OF EDUCATION.—For
7 purposes of this chapter, a program of education is an
8 approved program of education for purposes of this chap-
9 ter if the program of education is approved for purposes
10 of chapter 30 of this title (including approval by the State
11 approving agency concerned) and—

12 “(1) is offered by an institution offering post-
13 secondary level academic instruction that leads to an
14 associate or higher degree and such institution is an
15 institution of higher learning (as that term is de-
16 fined in section 3452(f) of this title); or

17 “(2) is offered by an institution offering in-
18 struction that does not lead to an associate or higher
19 degree and such institution is an educational institu-
20 tion (as that term is defined in section 3452(c) of
21 this title).”;

22 (2) by redesignating subsections (g), (h) (as
23 added by subsection (a)), and (i) (as redesignated by
24 such subsection) as subsections (h), (i), and (j) re-
25 spectively; and

1 (3) by inserting after subsection (f) the fol-
2 lowing new subsection (g):

3 “(g) PROGRAMS OF EDUCATION PURSUED AT INSTI-
4 TUTIONS OTHER THAN INSTITUTIONS OF HIGHER
5 LEARNING.—

6 “(1) IN GENERAL.—Educational assistance is
7 payable under this chapter for pursuit of an ap-
8 proved program of education consisting of a pro-
9 gram of apprenticeship, other on-job training, flight
10 training, or correspondence courses.

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

18 “(A) In the case of an individual enrolled
19 in a program of education consisting of on-job
20 training or a program of apprenticeship, a sti-
21 pend for each month the individual pursues the
22 program, as follows:

23 “(i) For the first six-month period of
24 the program, an amount equal to the
25 monthly amount of the basic allowance for

1 housing payable under section 403 of title
2 37 for a member with dependents in pay
3 grade E-5 residing in the military housing
4 area that encompasses all or the majority
5 portion of the ZIP code area in which the
6 employer is located.

7 “(ii) For the second six-month period
8 of the program, an amount equal to 80
9 percent of such amount.

10 “(iii) For the third six-month period
11 of the program, an amount equal to 60
12 percent of such amount.

13 “(iv) For any month after the first 18
14 months of such program, an amount equal
15 to 40 percent of such amount.

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

19 “(i) the established charges for the
20 program of education; or

21 “(ii) 60 percent of the amount in ef-
22 fect under section 3313(c)(1)(A)(ii)(II) of
23 this title.

24 “(C) In the case of an individual enrolled
25 in a program of education that is pursued ex-

1 exclusively by correspondence, an amount equal to
2 the lesser of—

3 “(i) the established charges for the
4 program of education; or

5 “(ii) 55 percent of the amount in ef-
6 fect under section 3313(c)(1)(A)(ii)(II) of
7 this title.

8 “(D) In the case of an individual entitled
9 to educational assistance by reason of para-
10 graphs (3) through (8) of section 3311(b), the
11 amounts payable to the individual pursuant to
12 3313(g) shall be the amounts otherwise deter-
13 mined pursuant to such subparagraphs multi-
14 plied by the same percentage applicable to the
15 monthly amounts payable to the individual
16 under paragraphs (2) through (7) of subsection
17 (c).

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

23 (4) CONFORMING AMENDMENT.—Subsection (i)
24 of such section 3313, as redesignated by paragraph
25 (2) of this subsection, is amended by striking

1 “(e)(2), and (f)(2)(A)” and inserting “subsections
2 (e)(2) and (f)(2)(A), and subparagraphs (A)(i), (B),
3 and (C), of subsection (g)(2)”.

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

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

8 (A) by redesignating subparagraphs (A)
9 and (B) as clauses (i) and (ii), respectively, and
10 by moving the margins of such clauses, as so
11 redesignated, 2 ems to the right;

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

14 (i) by striking “The amount” and in-
15 serting “The amounts”

16 (ii) by striking “is the lesser of—”
17 and inserting “are the amounts as follows:
18 “(A) An amount equal to the lesser of—”;

19 (iii) in clause (ii), as redesignated by
20 subparagraph (A), by inserting “; or” at
21 the end; and

22 (iv) by adding at the end the following
23 new clause (iii):

1 “(iii) the amount of assistance pay-
2 able to the individual under subsection
3 (c)(1)(A).”; and

4 (C) by adding at the end the following new
5 subparagraph (B):

6 “(B) For the first month of each quarter,
7 semester, or term, as applicable, of the program
8 of education pursued by the individual, a lump
9 sum amount for books, supplies, equipment,
10 and other educational costs with respect to such
11 quarter, semester, or term in the amount equal
12 to—

13 “(i) \$1,000, multiplied by

14 “(ii) the fraction which is the portion
15 of a complete academic year under the pro-
16 gram of education that such quarter, se-
17 mester, or term constitutes.”.

18 (2) TECHNICAL AMENDMENT.—Clause (ii) of
19 subsection (e)(2)(A) of such section, as redesignated
20 by paragraph (1)(A) of this subsection, is amended
21 by adding a period at the end.

1 **SEC. 4. EFFECTIVE DATE FOR ANNUAL HOUSING STIPEND**
2 **RATE DETERMINATIONS.**

3 Section 3313 of title 38, United States Code, as
4 amended by section 3, is further amended by adding at
5 the end the following new subsection:

6 “(k) DETERMINATION OF HOUSING STIPEND PAY-
7 MENTS FOR ACADEMIC YEARS.—Any monthly housing sti-
8 pend payable under this section during the academic year
9 beginning on August 1 of a calendar year shall be deter-
10 mined using rates for basic allowances for housing payable
11 under section 403 of title 37 in effect as of January 1
12 of such calendar year.”.

13 **SEC. 5. MODIFICATION OF ASSISTANCE FOR LICENSURE**
14 **AND CERTIFICATION TESTS.**

15 (a) REPEAL OF LIMITATION ON NUMBER OF REIM-
16 BURSABLE TESTS.—Subsection (a) of section 3315 of title
17 38, United States Code, is amended by striking “one li-
18 censing or certification test” and inserting “licensing or
19 certification tests”.

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

24 “(c) CHARGE AGAINST ENTITLEMENT.—The charge
25 against entitlement of an individual under this chapter for
26 payment for a licensing or certification test under sub-

1 section (a) shall be charged at the rate of one month for
2 each amount equal to the national average of the monthly
3 amount of the basic allowance for housing payable under
4 section 403 of title 37 for a member with dependents in
5 pay grade E-5.”.

6 **SEC. 6. ASSISTANCE FOR NATIONAL TESTS.**

7 (a) IN GENERAL.—Chapter 33 of title 38, United
8 States Code, is amended by inserting after section 3315
9 the following new section:

10 **“§ 3315A. National tests**

11 “(a) IN GENERAL.—An individual entitled to edu-
12 cational assistance under this chapter shall also be entitled
13 to educational assistance for the following:

14 “(1) A national test for admission to an institu-
15 tion of higher learning as described in the last sen-
16 tence of section 3452(b) of this title.

17 “(2) A national test providing an opportunity
18 for course credit at an institution of higher learning
19 as described in section 3452(f).

20 “(b) AMOUNT.—The amount of educational assist-
21 ance payable under this chapter for a test described in
22 subsection (a) is the lesser of—

23 “(1) the fee charged for the test; or

1 is amended by inserting “and section 510” after “and
2 107”.

3 (c) ADDITIONAL REQUIREMENTS AND LIMITA-
4 TIONS.—Section 3322 of such title, as amended by sub-
5 section (a), is further amended by adding at the end the
6 following new subsections:

7 “(e) BAR TO CONCURRENT RECEIPT OF TRANS-
8 FERRED EDUCATION BENEFITS AND MARINE GUNNERY
9 SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSIST-
10 ANCE.—An individual who is entitled to educational assist-
11 ance under both sections 3311(b)(9) and 3319 of this title
12 may not receive assistance under both provisions concur-
13 rently, but shall elect (in such form and manner as the
14 Secretary may prescribe) under which provision to receive
15 educational assistance.

16 “(f) BAR TO RECEIPT OF COMPENSATION AND PEN-
17 SION AND MARINE GUNNERY SERGEANT JOHN DAVID
18 FRY SCHOLARSHIP ASSISTANCE.—The commencement of
19 a program of education under section 3311(b)(9) of this
20 title shall be a bar to the following:

21 “(1) Subsequent payments of dependency and
22 indemnity compensation or pension based on the
23 death of a parent to an eligible person over the age
24 of 18 years by reason of pursuing a course in an
25 educational institution.

1 “(2) Increased rates, or additional amounts, of
2 compensation, dependency and indemnity compensa-
3 tion, or pension because of such a person, whether
4 eligibility is based upon the death of the parent.

5 “(g) BAR TO CONCURRENT RECEIPT OF TRANS-
6 FERRED EDUCATION BENEFITS.—A spouse or child who
7 is entitled to educational assistance under this chapter
8 based on a transfer of entitlement from more than one
9 individual under section 3319 of this title may not receive
10 assistance based on transfers from more than one such
11 individual concurrently, but shall elect (in such form and
12 manner as the Secretary may prescribe) under which
13 source to utilize such assistance at any one time.

14 “(h) BAR TO DUPLICATION OF ELIGIBILITY BASED
15 ON A SINGLE EVENT OR PERIOD OF SERVICE.—

16 “(1) ACTIVE-DUTY SERVICE.—An individual
17 with qualifying service in the Armed Forces that es-
18 tablishes eligibility on the part of such individual for
19 educational assistance under this chapter, chapter
20 30 or 32 of this title, and chapter 1606 or 1607 of
21 title 10, shall elect (in such form and manner as the
22 Secretary may prescribe) under which authority such
23 service is to be credited.

24 “(2) ELIGIBILITY FOR EDUCATIONAL ASSIST-
25 ANCE BASED ON PARENT’S SERVICE.—A child of a

1 member of the Armed Forces who, on or after Sep-
2 tember 11, 2001, dies in the line of duty while serv-
3 ing on active duty, who is eligible for educational as-
4 sistance under either section 3311(b)(9) or chapter
5 35 of this title by reason of the parent's death may
6 not receive such assistance under both this chapter
7 and chapter 35 of this title, but shall elect (in such
8 form and manner as the Secretary may prescribe)
9 under which chapter to receive such assistance.”.

10 **SEC. 8. PAYMENT OF EDUCATIONAL ASSISTANCE OR SUB-**
11 **SISTENCE ALLOWANCES.**

12 Section 3680(a)(3)(B) of title 38, United States
13 Code, is amended by striking “Notwithstanding the fore-
14 going” and all that follows through the period at the end
15 and inserting the following:

16 “Notwithstanding the foregoing, the Secretary may,
17 subject to such regulations as the Secretary shall pre-
18 scribe, continue to pay allowances to any eligible veteran
19 or eligible person who is enrolled in a course at an edu-
20 cational institution during periods when the educational
21 institution is temporarily closed under an established pol-
22 icy based on an Executive order of the President or due
23 to an emergency situation. The total number of weeks for
24 which allowances may continue to be so payable in any
25 12-month period may not exceed 4 weeks.”.

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

2 Section 3684(c) of title 38, United States Code, is
3 amended—

4 (1) by striking “multiplying \$7” and inserting
5 “multiplying \$12”; and

6 (2) by striking “or \$11” and inserting “or
7 \$15”.

8 **SEC. 10. AMOUNT OF SUBSISTENCE ALLOWANCE FOR VET-**
9 **ERANS WITH SERVICE-CONNECTED DISABIL-**
10 **ITIES.**

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

14 “(4) A veteran entitled to subsistence allowance
15 under this chapter and educational assistance under chap-
16 ter 33 of this title may elect to receive payment from the
17 Secretary in lieu of an amount otherwise determined by
18 the Secretary under this subsection in an amount equal
19 to the national average of the monthly amount of basic
20 allowance for housing payable under section 403 of title
21 37 for a member with dependents in pay grade E-5.”.

22 **SEC. 11. SUNSET OF BENEFITS.**

23 Title 38, United States Code, is amended by inserting
24 the following:

1 **“§ 3037. Sunset of benefits**

2 “Education benefits under this chapter are limited to
3 eligible individuals who enlisted or reenlisted before Octo-
4 ber 1, 2012.”.

5 **SEC. 12. MODIFICATION TO MONTGOMERY G.I. BILL COST**
6 **OF LIVING ADJUSTMENTS.**

7 (a) IN GENERAL.—Section 3015 of title 38, United
8 States Code, is amended—

9 (1) by striking subsection (h);

10 (2) in subsection (a)(1), by striking “rate of—
11 ” and all that follows through “; or” and inserting
12 “rate of \$1426; or”; and

13 (3) in subsection (b)(1), by striking “rate of—
14 ” and all that follows through “; or” and inserting
15 “rate of \$1158; or”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 subsection (a) shall take effect on the date of the enact-
18 ment of this Act.

19 **SEC. 13. EFFECTIVE DATE.**

20 Except as otherwise provided, sections 1 through 12
21 of this Act shall take effect on August 1, 2011.

○