

106TH CONGRESS  
2D SESSION

# S. 2402

To amend title 38, United States Code, to enhance and improve educational assistance under the Montgomery GI Bill in order to enhance recruitment and retention of members of the Armed Forces, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 11, 2000

Mr. CLELAND (for himself, Mr. LEVIN, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to enhance and improve educational assistance under the Montgomery GI Bill in order to enhance recruitment and retention of 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 “Help Our Professionals  
5 Educationally (HOPE) Act of 2000”.

1 **SEC. 2. TRANSFER OF ENTITLEMENT TO EDUCATIONAL AS-**  
2 **SISTANCE BY CERTAIN MEMBERS OF THE**  
3 **ARMED FORCES.**

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

8 **“§ 3020. Transfer of entitlement to basic educational**  
9 **assistance: members of the Armed Forces**

10 “(a)(1) Subject to the provisions of this section, the  
11 Secretary of each military department may, for the pur-  
12 pose of enhancing recruiting and retention and at such  
13 Secretary’s sole discretion, permit an individual described  
14 in paragraph (2) who is entitled to basic educational as-  
15 sistance under this subchapter to elect to transfer such  
16 individual’s entitlement to such assistance, in whole or in  
17 part, to the dependents specified in subsection (b).

18 “(2) An individual referred to in paragraph (1) is any  
19 individual who is a member of the Armed Forces at the  
20 time of the approval by the Secretary of the military de-  
21 partment concerned of the individual’s request to transfer  
22 entitlement to educational assistance under this section.

23 “(3) The Secretary of the military department con-  
24 cerned may not approve an individual’s request to transfer  
25 entitlement to educational assistance under this section

1 until the individual has completed six years of service in  
2 the Armed Forces.

3       “(4) Subject to the time limitation for use of entitle-  
4 ment under section 3031 of this title, an individual ap-  
5 proved to transfer entitlement to educational assistance  
6 under this section may transfer such entitlement at any  
7 time after the approval of individual’s request to transfer  
8 such entitlement without regard to whether the individual  
9 is a member of the Armed Forces when the transfer is  
10 executed.

11       “(b) An individual approved to transfer an entitle-  
12 ment to basic educational assistance under this section  
13 may transfer the individual’s entitlement to such assist-  
14 ance as follows:

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

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

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

20       “(c)(1) An individual transferring an entitlement to  
21 basic educational assistance under this section shall—

22               “(A) designate the dependent or dependents to  
23 whom such entitlement is being transferred and the  
24 percentage of such entitlement to be transferred to  
25 each such dependent; and

1           “(B) specify the period for which the transfer  
2           shall be effective for each dependent designated  
3           under subparagraph (A).

4           “(2) The aggregate amount of the entitlement trans-  
5           ferable by an individual under this section may not exceed  
6           the aggregate amount of the entitlement of such individual  
7           to basic educational assistance under this subchapter.

8           “(3) An individual transferring an entitlement under  
9           this section may modify or revoke the transfer at any time  
10          before the use of the transferred entitlement begins. An  
11          individual shall make the modification or revocation by  
12          submitting written notice of the action to the Secretary  
13          of the military department concerned.

14          “(d)(1) A dependent to whom entitlement to edu-  
15          cational assistance is transferred under this section may  
16          not commence the use of the transferred entitlement until  
17          the completion by the individual making the transfer of  
18          10 years of service in the Armed Forces.

19          “(2) The use of any entitlement transferred under  
20          this section shall be charged against the entitlement of the  
21          individual making the transfer at the rate of one month  
22          for each month of transferred entitlement that is used.

23          “(3) Except as provided in under subsection  
24          (c)(1)(B) and subject to paragraphs (4) and (5), a depend-  
25          ent to whom entitlement is transferred under this section

1 is entitled to basic educational assistance under this sub-  
2 chapter in the same manner and at the same rate as the  
3 individual from whom the entitlement was transferred.

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

8 “(5) The administrative provisions of this chapter  
9 (including the provisions set forth in section 3034(a)(1)  
10 of this title) shall apply to the use of entitlement trans-  
11 ferred under this section, except that the dependent to  
12 whom the entitlement is transferred shall be treated as  
13 the eligible veteran for purposes of such provisions.

14 “(e) In the event of an overpayment of basic edu-  
15 cational assistance with respect to a dependent to whom  
16 entitlement is transferred under this section, the depend-  
17 ent and the individual making the transfer shall be jointly  
18 and severally liable to the United States for the amount  
19 of the overpayment for purposes of section 3685 of this  
20 title.

21 “(f) The Secretary of a military department may ap-  
22 prove transfers of entitlement to educational assistance  
23 under this section in a fiscal year only to the extent that  
24 appropriations for military personnel are available in the  
25 fiscal year for purposes of making transfers of funds

1 under section 2006 of title 10 with respect to such trans-  
2 fers of entitlement.

3 “(g) The Secretary of Defense shall prescribe regula-  
4 tions for purposes of this section. Such regulations shall  
5 specify the manner and effect of an election to modify or  
6 revoke a transfer of entitlement under subsection (c)(3)  
7 and shall specify the manner of the applicability of the  
8 administrative provisions referred to in subsection (d)(5)  
9 to a dependent to whom entitlement is transferred under  
10 this section.

11 “(h)(1) Not later than January 31, 2002, and each  
12 year thereafter, each Secretary of a military department  
13 shall submit to the Committees on Armed Services of the  
14 Senate and House of Representatives a report on the  
15 transfers of entitlement under this section that were ap-  
16 proved by such Secretary during the preceding year.

17 “(2) Each report shall set forth—

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

21 “(B) if no transfers of entitlement under this  
22 section were approved by such Secretary during that  
23 year, a justification for such Secretary’s decision not  
24 to approve any such transfers of entitlement during  
25 that year.”.

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

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

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

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

13           (c) **PLAN FOR IMPLEMENTATION.**—Not later than  
14 June 30, 2001, the Secretary of Defense shall submit to  
15 Congress a report describing the manner in which the Sec-  
16 retaries of the military departments propose to exercise  
17 the authority granted by section 3020 of title 38, United  
18 States Code, as added by subsection (a).

19 **SEC. 3. PARTICIPATION OF ADDITIONAL MEMBERS OF THE**  
20 **ARMED FORCES IN MONTGOMERY GI BILL**  
21 **PROGRAM.**

22           (a) **PARTICIPATION AUTHORIZED.**—(1) Subchapter  
23 II of chapter 30 of title 38, United States Code, as amend-

1 ed by section 2(a) of this Act, is further amended by in-  
2 serting after section 3018C the following new section:

3 **“§ 3018D. Opportunity to enroll: certain VEAP par-**  
4 **ticipants; active duty personnel not pre-**  
5 **viously enrolled**

6       “(a)(1) Notwithstanding any other provision of law  
7 and subject to the provisions of this section, the Secretary  
8 concerned may, for the purpose of enhancing recruiting  
9 and retention and at such Secretary’s sole discretion, per-  
10 mit an individual described in subsection (b) to elect under  
11 subsection (c) to become entitled to basic educational as-  
12 sistance under this chapter.

13       “(2) The Secretary concerned may permit an indi-  
14 vidual to elect to become entitled to basic educational as-  
15 sistance under this section only if sufficient funds are  
16 available in accordance with this section for purposes of  
17 payments by the Secretary of Defense into the Depart-  
18 ment of Defense Education Benefits Fund under section  
19 2006 of title 10 with respect to such election.

20       “(3) An individual who makes an election to become  
21 entitled to basic educational assistance under this section  
22 shall be entitled to basic educational assistance under this  
23 chapter.

24       “(b) An individual eligible to be permitted to make  
25 an election under this section is an individual who—

1 “(1) either—

2 “(A)(i) is a participant on the date of the  
3 enactment of this section in the educational  
4 benefits program provided by chapter 32 of this  
5 title; or

6 “(ii) disenrolled from participation in that  
7 program before that date; or

8 “(B) has made an election under section  
9 3011(c)(1) or 3012(d)(1) of this title not to re-  
10 ceive educational assistance under this chapter  
11 and has not withdrawn that election under sec-  
12 tion 3018(a) of this title as of that date;

13 “(2) is serving on active duty (excluding periods  
14 referred to in section 3202(1)(C) of this title in the  
15 case of an individual described in paragraph (1)(A))  
16 on that date; and

17 “(3) before applying for benefits under this sec-  
18 tion, has completed the requirements of a secondary  
19 school diploma (or equivalency certificate) or has  
20 successfully completed the equivalent of 12 semester  
21 hours in a program of education leading to a stand-  
22 ard college degree.

23 “(c) An individual permitted to make an election  
24 under this section to become entitled to basic educational  
25 assistance under this chapter shall make an irrevocable

1 election to receive benefits under this section in lieu of  
2 benefits under chapter 32 of this title or withdraw the  
3 election made under section 3011(c)(1) or 3012(d)(1) of  
4 this title, as the case may be, pursuant to procedures  
5 which the Secretary of each military department shall pro-  
6 vide in accordance with regulations prescribed by the Sec-  
7 retary of Defense for the purpose of carrying out this sec-  
8 tion or which the Secretary of Transportation shall pro-  
9 vide for such purpose with respect to the Coast Guard  
10 when it is not operating as a service in the Navy.

11       “(d)(1) Except as provided in paragraphs (2) and  
12 (3), in the case of an individual who makes an election  
13 under this section to become entitled to basic educational  
14 assistance under this chapter, the basic pay of the indi-  
15 vidual shall be reduced (in a manner determined by the  
16 Secretary of Defense) until the total amount by which  
17 such basic pay is reduced is—

18               “(A) \$1,200, in the case of an individual de-  
19 scribed in subsection (b)(1)(A); or

20               “(B) \$1,500, in the case of an individual de-  
21 scribed in subsection (b)(1)(B).

22       “(2) In the case of an individual previously enrolled  
23 in the educational benefits program provided by chapter  
24 32 of this title, the total amount of the reduction in basic  
25 pay otherwise required by paragraph (1) shall be reduced

1 by an amount equal to so much of the unused contribu-  
2 tions made by the individual to the Post-Vietnam Era Vet-  
3 erans Education Account under section 3222(a) of this  
4 title as do not exceed \$1,200.

5       “(3) An individual may at any time pay the Secretary  
6 concerned an amount equal to the difference between the  
7 total of the reductions otherwise required with respect to  
8 the individual under this subsection and the total amount  
9 of the reductions made with respect to the individual  
10 under this subsection as of the time of the payment.

11       “(4) The Secretary concerned shall transfer to the  
12 Secretary of Defense amounts retained with respect to in-  
13 dividuals under paragraph (1) and amounts, if any, paid  
14 by individuals under paragraph (3).

15       “(e)(1) An individual who is enrolled in the edu-  
16 cational benefits program provided by chapter 32 of this  
17 title and who makes the election described in subsection  
18 (c) shall be disenrolled from the program as of the date  
19 of such election.

20       “(2) For each individual who is disenrolled from such  
21 program, the Secretary shall transfer to Secretary of De-  
22 fense any amounts in the Post-Vietnam Era Veterans  
23 Education Account that are attributable to the individual,  
24 including amounts in the Account that are attributable to

1 the individual by reason of contributions made by the Sec-  
2 retary of Defense under section 3222(c) of this title.

3 “(f) With respect to each individual electing under  
4 this section to become entitled to basic educational assist-  
5 ance under this chapter, the Secretary concerned shall  
6 transfer to the Secretary of Defense, from appropriations  
7 for military personnel that are available for transfer, an  
8 amount equal to the difference between—

9 “(1) the amount required to be paid by the Sec-  
10 retary of Defense into the Department of Defense  
11 Education Benefits Fund with respect to such elec-  
12 tion; and

13 “(2) the aggregate amount transferred to the  
14 Secretary of Defense with respect to the individual  
15 under subsections (d) and (e).

16 “(g) The Secretary of Defense shall utilize amounts  
17 transferred to such Secretary under this section for pur-  
18 poses of payments into the Department of Defense Edu-  
19 cation Benefits Fund with respect to the provision of bene-  
20 fits under this chapter for individuals making elections  
21 under this section.

22 “(h)(1) The requirements of sections 3011(a)(3) and  
23 3012(a)(3) of this title shall apply to an individual who  
24 makes an election under this section, except that the com-  
25 pletion of service referred to in such section shall be the

1 completion of the period of active duty being served by  
2 the individual on the date of the enactment of this section.

3 “(2) The procedures provided in regulations referred  
4 to in subsection (c) shall provide for notice of the require-  
5 ments of subparagraphs (B), (C), and (D) of section  
6 3011(a)(3) of this title and of subparagraphs (B), (C),  
7 and (D) of section 3012(a)(3) of this title. Receipt of such  
8 notice shall be acknowledged in writing.

9 “(i)(1) Not later than January 31, 2002, and each  
10 year thereafter, each Secretary concerned shall submit to  
11 the Committees on Armed Services of the Senate and  
12 House of Representatives a report on the members of the  
13 Armed Forces under the jurisdiction of such Secretary  
14 who were permitted to elect to become entitled to basic  
15 educational assistance under this section during the pre-  
16 ceding year.

17 “(2) Each report shall set forth—

18 “(A) the number of members who were per-  
19 mitted to elect to become entitled to basic edu-  
20 cational assistance under this section during the pre-  
21 ceding year;

22 “(B) the number of members so permitted who  
23 elected to become entitled to basic educational as-  
24 sistance during that year; and

1           “(C) if no members were so permitted during  
2           that year, a justification for such Secretary’s deci-  
3           sion not to permit any members to elect to become  
4           so entitled during that year.”.

5           (2) The table of sections at the beginning of chapter  
6 30 of that title, as amended by section 2(a) of this Act,  
7 is further amended by inserting after the item relating to  
8 section 3018C the following new item:

          “3018D. Opportunity to enroll: certain VEAP participants; active duty per-  
          sonnel not previously enrolled.”.

9           (b) CONFORMING AMENDMENT.—Section 3015(f) of  
10 that title is amended by striking “or 3018C” and inserting  
11 “3018C, or 3018D”.

12          (c) TREATMENT UNDER DEPARTMENT OF DEFENSE  
13 EDUCATION BENEFITS FUND.—Section 2006(b)(2) of  
14 title 10, United States Code, as amended by section 2(b)  
15 of this Act, is further amended by adding at the end the  
16 following:

17                   “(E) The present value of the future bene-  
18                   fits payable from the Fund as a result of elec-  
19                   tions under section 3018D of title 38 of entitle-  
20                   ment to basic educational assistance under  
21                   chapter 30 of title 38.”.

22          (d) PLANS FOR IMPLEMENTATION.—(1) Not later  
23 than June 30, 2001, the Secretary of Defense shall submit  
24 to Congress a report describing the manner in which the

1 Secretaries of the military departments propose to exercise  
2 the authority granted by section 3018A of title 38, United  
3 States Code, as added by subsection (a).

4 (2) Not later than June 30, 2001, the Secretary of  
5 Transportation shall submit to Congress a report describ-  
6 ing the manner in which that Secretary proposes to exer-  
7 cise the authority granted by such section 3018A with re-  
8 spect to members of the Coast Guard.

9 **SEC. 4. MODIFICATION OF AUTHORITY TO PAY TUITION**  
10 **FOR OFF-DUTY TRAINING AND EDUCATION.**

11 (a) **AUTHORITY TO PAY ALL CHARGES.**—Section  
12 2007 of title 10, United States Code, is amended—

13 (1) by striking subsections (a) and (b) and in-  
14 serting the following new subsections:

15 “(a) Subject to subsection (b), the Secretary of a  
16 military department may pay all or a portion of the  
17 charges of an educational institution for the tuition or ex-  
18 penses of a member of the armed forces enrolled in such  
19 educational institution for education or training during  
20 the member’s off-duty periods.

21 “(b) In the case of a commissioned officer on active  
22 duty, the Secretary of the military department concerned  
23 may not pay charges under subsection (a) unless the offi-  
24 cer agrees to remain on active duty for a period of at least

1 two years after the completion of the training or education  
 2 for which the charges are paid.”; and

3 (2) in subsection (d)—

4 (A) by striking “(within the limits set forth  
 5 in subsection (a))” in the matter preceding  
 6 paragraph (1); and

7 (B) in paragraph (3), by striking “sub-  
 8 section (a)(3)” and inserting “subsection (b)”.

9 (b) USE OF ENTITLEMENT TO ASSISTANCE UNDER  
 10 MONTGOMERY GI BILL FOR PAYMENT OF CHARGES.—(1)

11 That section is further amended by adding at the end the  
 12 following new subsection:

13 “(e)(1) A member of the armed forces who is entitled  
 14 to basic educational assistance under chapter 30 of title  
 15 38 may use such entitlement for purposes of paying any  
 16 portion of the charges described in subsection (a) or (c)  
 17 that are not paid for by the Secretary of the military de-  
 18 partment concerned under such subsection.

19 “(2) The use of entitlement under paragraph (1)  
 20 shall be governed by the provisions of section 3014(b) of  
 21 title 38.”.

22 (2) Section 3014 of title 38, United States Code, is  
 23 amended—

24 (A) by inserting “(a)” before “The Secretary”;

25 and

1           (B) by adding at the end the following new sub-  
2           section:

3           “(b)(1) In the case of an individual entitled to basic  
4           educational assistance who is pursuing education or train-  
5           ing described in subsection (a) or (c) of section 2007 of  
6           title 10, the Secretary shall, at the election of the indi-  
7           vidual, pay the individual a basic educational assistance  
8           allowance to meet all or a portion of the charges of the  
9           educational institution for the education or training that  
10          are not paid by the Secretary of the military department  
11          concerned under such subsection.

12          “(2)(A) The amount of the basic educational assist-  
13          ance allowance payable to an individual under this sub-  
14          section for a month shall be the amount of the basic edu-  
15          cational assistance allowance to which the individual would  
16          be entitled for the month under section 3015 of this title  
17          (without regard to subsection (g) of that section) were  
18          payment made under that section instead of under this  
19          subsection.

20          “(B) The maximum number of months for which an  
21          individual may be paid a basic educational assistance al-  
22          lowance under paragraph (1) is 36.”.

23          (3) Section 3015 of title 38, United States Code, is  
24          amended—

1 (A) by striking “subsection (g)” each place it  
2 appears in subsections (a) and (b);

3 (B) by redesignating subsection (g) as sub-  
4 section (h); and

5 (C) by inserting after subsection (f) the fol-  
6 lowing new subsection (g):

7 “(g) In the case of an individual who has been paid  
8 a basic educational assistance allowance under section  
9 3014(b) of this title, the rate of the basic educational as-  
10 sistance allowance applicable to the individual under this  
11 section shall be the rate otherwise applicable to the indi-  
12 vidual under this section reduced by an amount equal to—

13 “(1) the aggregate amount of such allowances  
14 paid the individual under such section 3014(b); di-  
15 vided by

16 “(2) 36.”.

17 **SEC. 5. MODIFICATION OF TIME FOR USE BY CERTAIN**  
18 **MEMBERS OF SELECTED RESERVE OF ENTI-**  
19 **TLEMENT TO CERTAIN EDUCATIONAL AS-**  
20 **SISTANCE.**

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

24 “(5)(A) In the case of a person who continues to  
25 serve as member of the Selected Reserve as of the end

1 of the 10-year period applicable to the person under sub-  
2 section (a), as extended, if at all, under paragraph (4),  
3 the period during which the person may use the person's  
4 entitlement shall expire at the end of the 5-year period  
5 beginning on the date the person is separated from the  
6 Selected Reserve.

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

○