

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.

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

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.”.

○