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SENATE

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### POST-9/11 VETERANS EDUCATIONAL ASSISTANCE IMPROVEMENTS ACT OF 2010

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OCTOBER 26 (legislative day, OCTOBER 1), 2010.—Ordered to be printed

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Mr. AKAKA, from the Committee on Veterans' Affairs,  
submitted the following

### R E P O R T

[To accompany S. 3447]

The Committee on Veterans' Affairs (hereinafter, "the Committee"), to which was referred the bill (S. 3447), to amend title 38, United States Code (hereinafter, "U.S.C."), to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

#### INTRODUCTION

On May 27, 2010, Chairman Daniel K. Akaka introduced S. 3447, the proposed "Post-9/11 Veterans Educational Assistance Improvements Act of 2010," to amend title 38 to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes. Later, Ranking Member Richard Burr and Senators Baucus, Begich, Bennet, Boxer, Burris, Dodd, Gillibrand, Inouye, Johnson, Kaufman, Landrieu, Lautenberg, Lincoln, McCaskill, Merkley, Murkowski, Murray, Rockefeller, Sanders, Schumer, Snowe, Stabenow, Tester, Udall (NM), and Webb were added as cosponsors.

On July 21, 2010, the Committee held a hearing on pending legislation, including S. 3447. Testimony was offered by: Keith Wilson, Director, Education Service, Department of Veterans Affairs; Robert E. Clark, Assistant Director for Accession Policy, Department of Defense; Eric A. Hilleman, National Legislative Director, Veterans of Foreign Wars; Tim Embree, Legislative Associate, Iraq

and Afghanistan Veterans of America; Terry Hartle, Senior Vice President, American Council on Education; Judy Flink, Executive Director, Student Financial Services, University of Illinois; and Gerard M. Farrell, Captain, U.S. Navy (Ret.), Executive Director, Commissioned Officers Association of the U.S. Public Health Service.

#### COMMITTEE MEETING

After carefully reviewing the testimony from the foregoing hearing, including written testimony submitted for the record of the hearing, the Committee met in open session on August 5, 2010, to consider, among other legislation, S. 3447 with an amendment in the nature of a substitute. The Committee voted, without dissent, to report favorably S. 3447 as amended.

#### SUMMARY OF S. 3447 AS REPORTED

The bill as reported (hereinafter, “the Committee bill”) would amend title 38 to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes. It consists of two titles, as follows:

##### TITLE I—POST-9/11 VETERANS EDUCATIONAL ASSISTANCE

##### *Section 101*

- Would amend the definition of active duty for purposes of eligibility for benefits under the Post-9/11 Veterans Educational Assistance Act of 2008 (hereinafter, “Post-9/11 GI Bill”) in order to align full-time National Guard duty with the Reserve active duty under the provisions of section 12301(d) of title 10, U.S.C., thereby correcting the inadvertent omission of eligibility for two distinct types of full-time National Guard duty, both of which qualify for the current Montgomery GI Bill (hereinafter, “MGIB”): (1) Active Guard Reserve (hereinafter, “AGR”) duty under title 32, U.S.C., and (2) individuals ordered to full-time National Guard duty by the President or the Secretary of Defense under section 502(f) of title 32, U.S.C.
- Would clarify that specialized types of training proprietary to the Department of the Army and to the Coast Guard (One Station Unit Training and A School Training, respectively) should be considered to be active duty for training and thus should count towards eligibility for Post-9/11 GI Bill benefits only in certain circumstances.
- Would clarify that, in order to be eligible for Post-9/11 GI Bill benefits, individuals receiving certain other than traditional discharges (such as “existed prior to service” or hardship discharges) must receive discharges characterized as honorable.
- Would align the eligibility of individuals attending the Coast Guard Academy with those attending the other three military academies so that eligibility for Post-9/11 GI Bill benefits would only begin to accrue following the completion of any obligated period of service required by virtue of completion of a program of education at the Academy.

*Section 102*

- Would provide that the amount of assistance paid on behalf of an individual enrolled in a degree program at a public institution of higher learning would be up to the actual cost of in-State tuition and fees (less any waiver or reduction of tuition or fees or any amount provided directly to the institution on behalf of an eligible student for the sole purpose of defraying tuition and fees).
- Would provide that the amount of assistance paid on behalf of an individual enrolled in a degree program at a non-public or foreign institution of higher learning would be up to the lesser of an annualized rate of \$20,000 (adjusted annually by increases in the cost of education) or the actual cost of tuition and fees (less any waiver or reduction of tuition or fees or any amount provided directly to the institution on behalf of an eligible student for the sole purpose of defraying tuition and fees).
- Would provide that the living stipend payable to individuals training on more than a half-time basis would be adjusted based on actual training time rounded to the nearest tenth.
- Would provide that the maximum living stipend payable to individuals enrolled more than half-time in training courses consisting entirely of distance learning would be fifty percent of the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5, adjusted based on the actual training time.

*Section 103*

- Would provide that the amount of assistance paid on behalf of an individual enrolled in training while on active duty would be up to the lesser of an annualized rate of \$20,000 (adjusted annually by increases in the cost of education) or the actual cost of in-State tuition and fees (less any waiver or reduction of tuition or fees or any amount provided directly to the institution on behalf of an eligible student for the sole purpose of defraying tuition and fees).
- Would provide for up to a \$1,000 annual book allowance to be paid to individuals training while on active duty.

*Section 104*

- Would clarify the amount of assistance payable to individuals enrolled in training on a half-time-or-less basis.

*Section 105*

- Would provide that Post-9/11 GI Bill benefits may be used at institutions other than institutions of higher learning.
- Would provide that the amount of assistance paid to an individual enrolled in a program of education not leading to a college degree would be up to the lesser of an annualized rate of \$20,000 (adjusted annually by increases in the cost of education) or the actual cost of in-State tuition and fees (less any waiver or reduction of tuition or fees or any amount provided directly to the institution on behalf of an eligible student for the sole purpose of defraying tuition and fees).
- Would provide that the living stipend payable to individuals enrolled on more than a half-time basis in a program of education

not leading to a college degree would be adjusted based on actual training time rounded to the nearest tenth.

- Would provide for the payment of up to a \$1,000 annual book allowance to individuals enrolled in programs of education not leading to a college degree.

- Would provide that the maximum payment of the living allowance to individuals enrolled in full-time programs of apprenticeship or on-job training would be 100 percent of the otherwise applicable allowance for the first six months, 80 percent for the second six months, 60 percent for the third six months, 40 percent for the fourth six months, and 20 percent for any subsequent periods of training.

- Would provide for the payment of up to a \$1,000 annual book and supplies allowance to individuals enrolled in programs of apprenticeship or on-job training.

- Would provide that the maximum amount of assistance paid on behalf of an individual enrolled in a program of flight training would be the lesser of an annualized rate of \$12,000 (adjusted annually by increases in the cost of education) or the actual cost of in-State tuition and fees (less waiver or reduction of tuition or fees or any amount provided directly to the institution on behalf of an eligible student for the sole purpose of defraying tuition and fees).

- Would provide that the maximum amount of assistance paid on behalf of an individual enrolled in a program of training exclusively by correspondence would be the lesser of an annualized rate of \$10,000 (adjusted annually by increases in the cost of education) or the actual cost of tuition and fees (less any waiver or reduction of tuition or fees or any amount provided directly to the institution on behalf of an eligible student for the sole purpose of defraying tuition and fees).

- Would specify the timing and frequency of payments for other than traditional programs of education.

- Would provide for the charge to entitlement for individuals pursuing other than programs of education leading to a degree based on the amount paid as a percentage of the otherwise applicable annual rate.

#### *Section 106*

- Would provide that increases in the living stipend would take effect on August 1 of each year.

#### *Section 107*

- Would remove provisions that limit use of Post-9/11 GI Bill benefits to a single licensing or certification test and do not provide for a charge to entitlement for the pursuit of a certificate or licensing test; it would instead allow unlimited use of benefits to pay for licensing and certification tests with a charge to entitlement for each such test.

#### *Section 108*

- Would permit individuals to use Post-9/11 GI Bill benefits for the purpose of taking certain national tests with a charge to entitlement for each such test.

*Section 109*

- Would clarify that individuals who receive recruitment or retention kickers from the Department of Defense (hereinafter, “DOD”) under the MGIB or the Montgomery GI Bill—Selected Reserves may convert that assistance into Post-9/11 GI Bill benefits.
- Would permit DOD to pay the Department of Veterans Affairs (hereinafter, “VA”) for such kickers from funds deposited in the Department of Defense Education Benefits Fund.

*Section 110*

- Would permit certain members of the U.S. Public Health Service and the National Oceanic and Atmospheric Administration to transfer Post-9/11 GI Bill benefits to their dependents (following the completion of minimum duty requirements).
- Clarifies that the purpose of the transferability feature is to promote recruitment and retention and that the individual Secretary concerned (e.g., Secretary of the Army, Secretary of the Navy, Secretary of Health and Human Services, and others) may exercise the authority when authorized by the Secretary of Defense because to do so is in the national security interests of the United States.

*Section 111*

- Would bar duplication of certain VA benefits to individuals in receipt of benefits under the Marine Gunnery Sergeant John David Fry Scholarship Assistance program.
- Would prohibit a dependent from concurrently using transferred Post-9/11 GI Bill benefits from more than one individual.
- Would bar duplication of benefits based on a single event or period of service.

*Section 112*

- Would make a series of technical and conforming amendments.

## TITLE II—OTHER EDUCATIONAL ASSISTANCE MATTERS

*Section 201*

- Would permit a tolling of the delimiting date for use of education benefits by otherwise eligible individuals who are designated caregivers of disabled veterans or servicemembers and who, by virtue of that caregiving, were unable to pursue a program of education.

*Section 202*

- Would add the National Call to Service program to the list of programs under which duplication of benefits is prohibited.

*Section 203*

- Would provide that certain programs of education that are accredited by agencies or associations recognized by the Secretary of Education or approved by other Federal agencies or States could be considered to be approved for VA purposes without the need for approval by a State approving agency (hereinafter, “SAA”).

- Would provide that the Secretary of Veterans Affairs may use the services of SAAs for such compliance and oversight purposes as the Secretary considers appropriate.
- Would provide that either the Secretary of Veterans Affairs or SAAs may approve accredited programs offered by for-profit institutions.
- Would provide that a course that does not meet VA requirements will be disapproved either by the Secretary or by SAAs.

*Section 204*

- Would provide for an increase in the amount of reporting fees paid to institutions and would add a requirement that fees be used to support certifying activities or other activities that support veterans.

*Section 205*

- Would permit service-connected disabled veterans enrolled in a program under chapter 31 of title 38 (veterans' rehabilitation and training) who also have eligibility under the Post-9/11 GI Bill to elect under what chapter to receive either the applicable subsistence allowance or the living allowance.

*Section 206*

- Would reduce to four weeks in any academic year the amount of interval pay available to individuals between breaks in education training programs.

#### BACKGROUND AND DISCUSSION

With the enactment of Public Law 110–252, the Supplemental Appropriations Act, 2008, a new program of educational assistance was established for veterans who have served in the Armed Forces since September 11, 2001. Title V of that law put in place a new program for such veterans under chapter 33 of title 38, U.S.C. Since the circumstances leading to the enactment of the new program were outside the framework of the usual Committee process for development and consideration of legislation, it became clear early on that there were a number of issues with the new program that required a legislative remedy. In addition, early experiences with the new program demonstrated that, in a number of instances, the new program was extraordinarily complex, was difficult to understand, and resulted in inequities.

*Background.* The new chapter 33 program officially became effective on August 1, 2009. However, even before that date, the Committee had undertaken oversight activities relating to the new benefits through frequent meetings with VA officials and with representatives from veterans service organizations (hereinafter, “VSOs”), various student groups, school certifying officials, and others involved in implementing and administering the new benefit. In addition, oversight visits to two of the four Regional Processing Offices were conducted by Committee staff in the Fall of 2009 and the Spring of 2010. Finally, the Committee held three informational briefings for Senators and their staffs to explain the various complexities and issues prior to the new program becoming effective.

On April 21, 2010, the Committee held an oversight hearing on the implementation of the Post-9/11 GI Bill. During this hearing,

the Committee heard from VA, DOD, VSOs, and stakeholders about the problems that had been encountered—such as delayed processing issues, emergency payments and their recovery, overpayments, and the implementation of an entirely new information technology solution designed to resolve many of the issues.

In addition, the Committee received considerable input from individuals eligible for the new program and those responsible for administering it at various levels, which helped show the need to develop a streamlined, less complex, and fairer program as well as to expand certain opportunities for training and education.

#### TITLE I—POST-9/11 VETERANS EDUCATIONAL ASSISTANCE

##### *Sec. 101. Modification of Entitlement to Educational Assistance.*

Section 101 of the Committee bill, which is derived from S. 3447 as introduced, would make a number of modifications and clarifications with respect to entitlement for the Post-9/11 GI Bill under chapter 33 of title 38, U.S.C.

##### *Active Duty for Guard and Reserve Members*

*Background.* Under current law, certain members of Guard and Reserve units are eligible for benefits under the Post-9/11 GI Bill when called to active duty under title 10, U.S.C., for national security purposes by the President or the Secretary of Defense. In addition, certain other members of the Guard and Reserve are eligible for benefits under chapter 30, MGIB, and chapter 1607 of title 10, Reserve Educational Assistance Program (hereinafter, “REAP”). These include individuals serving in the Army National Guard or the Air National Guard under the authority of section 502(f) of title 32, U.S.C., when called to active duty by the President or the Secretary of Defense to respond to a national emergency.

Individuals who serve in this capacity under title 32 are those performing full-time National Guard Duty under the Active Guard Reserve program and were generally assigned to Operation Jump Start, which assisted U.S. Customs and Border Patrol agents with logistics and observation activities beginning in 2006, and Operation Noble Eagle, which provided security for airport and airspace operations following the events of September 11, 2001.

Due to an inadvertent oversight in the original Post-9/11 GI Bill, this group of title 32 Guard members who had established eligibility for the MGIB or REAP were omitted.

*Committee Bill.* Subsection (a)(1) of section 101 of the Committee bill would amend section 3301 of title 38 to correct this oversight and make these Guard members eligible for the Post-9/11 GI Bill. This change would take effect retroactively on August 1, 2009, as if included in Public Law 110–252.

##### *Definition of Basic Training*

*Background.* Under current law, section 3311 of title 38, individuals who complete specified periods of service are eligible for chapter 33 benefits. These specified periods consist of active duty and, once an individual has served on active duty for at least 2 years, includes active duty for entry level and skill training. Section 3301(2) defines the term entry level and skill training as it pertains to the various branches of the Armed Forces.

For the purposes of the Department of the Army, Basic Combat Training and Advanced Skill Training are considered entry level and skill training; for the purposes of the Coast Guard, Basic Training is so considered. However, there are two types of entry level or skill training proprietary to the Army and the Coast Guard that are not specified in current law: “One Station Unit Training” (initial entry training) in the case of the Army and “‘A’ School Training” (skill training) in the case of the Coast Guard.

*Committee Bill.* Subsections (a)(2) and (3) of section 101 of the Committee bill would amend section 3301(2) of title 38 to clarify that One Station Unit Training and “A” School Training are included in the definition of entry level and skill training in the case of the Army and the Coast Guard, respectively. These changes would take effect on the date of enactment and apply with respect to individuals entering service on or after that date.

#### *Honorable Discharge Requirement*

*Background.* Current law, section 3311(c) of title 38, generally requires that, in order to be eligible for educational assistance under the Post-9/11 GI Bill, a servicemember must receive an honorable discharge. However, due to an inadvertent error, there are a number of specific types of discharges for which the required nature of the discharge are not specified. These include a discharge or release for a pre-existing medical condition, for hardship, or for a physical or mental condition (not characterized as a disability) that interferes with an individual’s performance of duty.

*Committee Bill.* Subsection (b) of section 101 of the Committee bill would amend section 3311(c)(4) to clarify that, in the case of a discharge or release for a pre-existing medical condition, for hardship, or for a physical or mental condition (not characterized as a disability) that interferes with an individual’s performance of duty, the service would be required to be characterized as honorable to qualify for Post-9/11 GI Bill benefits. This change would take effect on the date of enactment and apply with respect to discharges and releases from active duty that occur on or after that date.

#### *Service in connection with Attendance at the Coast Guard Academy*

*Background.* Section 3311(d) of title 38 prohibits an individual from using certain periods of active-duty service for purposes of calculating eligibility for Post-9/11 GI Bill benefits, including an obligated period of service required in exchange for attendance at the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy. Current law, however, inadvertently omitted an obligated period of service required as a result of attendance at the United States Coast Guard Academy.

*Committee Bill.* Subsection (c) of section 101 of the Committee bill would correct this omission by amending section 3311(d)(2) of title 38 to exclude an obligated period of service required in connection with attendance at the Coast Guard Academy. This change would take effect on the date of enactment and apply with respect to individuals entering into agreements for obligated periods of service on or after that date.



*Sec. 102. Amounts of Assistance for Programs of Education Leading to a Degree Pursued at Public, Non-Public, and Foreign Institutions of Higher Learning.*

Section 102 of the Committee bill, which is derived from S. 3447 as introduced, would revise various payment formulas in order to streamline, simplify, and make more equitable certain payments.

*Programs of Education Leading to a Degree*

*Background.* Section 3313(c) of title 38 provides for the payment of educational assistance to an institution of higher learning on behalf of an eligible individual pursuing a program of education. The amount of the payment is based on a percentage, as determined by length of active-duty service, of the amount of tuition and fees charged, not to exceed the most expensive in-State public undergraduate institution of higher education in the same State.

This payment scheme has resulted in benefits that are confusing, unpredictable and, in some cases, inequitable. Tuition and fees were calculated separately in order to take into account simultaneous enrollments at multiple institutions. In some cases, so-called “boutique” or “niche” courses with extraordinarily high fees (such as a pharmaceutical or a flight training course) pushed allowed fees in some States much higher than anticipated. In other cases, for States where tuition at public schools was low or non-existent, students attending private-sector institutions were penalized since their tuition payments were based on the public institutions’ maximum rates.

The following VA chart of tuition and fee maximums for the 2009–2010 academic year illustrates the confusion, complexity, and inequities of the payment structure.

Table last updated January 25, 2010

State	Maximum Charge per Credit Hour	Maximum Total Fees per Term
Alabama .....	\$291.67	\$13,328.00
Alaska .....	\$159.00	\$13,429.00
Arizona .....	\$657.00	\$15,000.59
Arkansas .....	\$200.40	\$1,811.40
California .....	\$335.75	\$2,165.25
Colorado .....	\$497.00	\$45,387.50
Connecticut .....	\$516.00	\$2,508.50
Delaware .....	\$356.00	\$523.00
District of Columbia .....	\$197.92	\$620.00
Florida .....	\$295.00	\$62,000.00
Guam .....	\$190.00	\$245.00
Georgia .....	\$433.58	\$15,215.00
Hawaii .....	\$282.00	\$1,449.40
Idaho .....	\$259.00	\$2,821.30
Illinois .....	\$575.08	\$12,836.00
Indiana .....	\$321.75	\$12,438.00
Iowa .....	\$324.25	\$11,817.00
Kansas .....	\$393.95	\$3,804.00
Kentucky .....	\$430.30	\$11,235.00
Louisiana .....	\$430.00	\$2,622.70
Maine .....	\$329.17	\$2,805.00
Maryland .....	\$458.13	\$2,380.00
Massachusetts .....	\$330.00	\$17,787.00
Michigan .....	\$990.00	\$9,792.20
Minnesota .....	\$750.00	\$4,493.86
Mississippi .....	\$449.00	\$805.00
Missouri .....	\$269.00	\$9,863.00
Montana .....	\$205.40	\$4,250.16

Table last updated January 25, 2010—Continued

State	Maximum Charge per Credit Hour	Maximum Total Fees per Term
Nebraska .....	\$236.75	\$1,574.00
Nevada .....	\$136.00	\$2,839.00
New Hampshire .....	\$932.54	\$4,977.00
New Jersey .....	\$450.67	\$5,736.00
New Mexico .....	\$212.58	\$11,342.00
New York .....	\$1,010.00	\$12,697.00
North Carolina .....	\$494.00	\$2,163.90
North Dakota .....	\$409.56	\$25,928.00
Ohio .....	\$477.00	\$15,134.00
Oklahoma .....	\$151.00	\$11,546.30
Oregon .....	\$438.00	\$22,190.00
Pennsylvania .....	\$886.00	\$6,391.00
Puerto Rico .....	\$90.00	\$537.00
Rhode Island .....	\$343.00	\$2,020.00
South Carolina .....	\$484.00	\$4,305.50
South Dakota .....	\$93.40	\$4,748.31
Tennessee .....	\$248.00	\$13,190.00
Texas .....	\$1,471.00	\$12,130.00
Utah .....	\$208.86	\$63,576.50
Vermont .....	\$488.00	\$2,511.00
Virgin Islands .....	\$120.00	\$563.00
Virginia .....	\$326.00	\$3,840.00
Washington .....	\$380.00	\$14,444.50
West Virginia .....	\$266.92	\$4,029.67
Wisconsin .....	\$663.00	\$30,979.00
Wyoming .....	\$94.00	\$4,335.00
Overseas .....	\$408.09	\$10,502.97

*Committee Bill.* Subsection (a) of section 102 of the Committee bill would eliminate the current State cap system and replace it with a two-tiered structure that should substantially reduce confusion. If the eligible student attends a public institution of higher learning in pursuit of a degree, VA will reimburse the full cost of in-State tuition and fees charged by the institution less any waiver or reduction of tuition and fees for which the student is eligible or any Federal, State, institutional or employer-based funds provided directly to the institution which are designated for the sole purpose of defraying tuition and fees (not including loans or Pell grants). In the case of an individual enrolled in a non-public or foreign institution of higher learning in pursuit of a degree, the amount paid would be the lesser of the actual net cost, as provided for public institutions, or an annualized amount of \$20,000. The \$20,000 amount would be indexed to increases in the cost of education as provided under the MGIB in section 3015(h) of title 38 and would be adjusted on August 1 of each year. These changes would take effect on August 1, 2011, and would apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.

#### *Amounts of Monthly Stipends*

*Background.* In addition to payments for tuition and fees, individuals using Post-9/11 GI Bill benefits may be eligible for a monthly living stipend. Section 3313(c) of title 38 provides that the maximum living allowance paid is equivalent to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a servicemember with dependents in pay grade E-5 (herein-

after, “BAH E-5”). The allowance is paid based on the ZIP code area in which the educational institution is located.

Currently, those enrolled in training on more-than-a-half-time basis may be eligible to be paid the full housing allowance. As a result, individuals pursuing training on a 51 percent basis may be paid the same allowance as those enrolled full-time. This means that an eligible student attending school just over half-time enrollment (for example, at the rate of 7 credits per term) could receive up to 72 months of the living allowance payments.

Existing law does not specify the amount of the living allowance for individuals pursuing programs of education in foreign countries and does not permit the payment of a living allowance for those pursuing a program of education solely by distance learning.

*Committee Bill.* Subsection (b) of section 102 of the Committee bill would provide that the maximum monthly living allowance for more than half-time study in pursuit of a degree would be equal to the BAH E-5 amount multiplied by the lesser of 1.0 or the rate of pursuit rounded to the nearest multiple of ten. Therefore, under the Committee bill, an individual enrolled on a 61 percent basis would receive up to 60 percent of the applicable living allowance; an individual enrolled on a 76 percent basis would receive up to 80 percent of the allowance.

Further, subsection (b) of section 102 of the Committee bill would provide that the monthly living allowance for individuals pursuing a program of education in a foreign country would be calculated based on the national average BAH E-5 amount and adjusted based on rate of pursuit.

Finally, this section of the Committee bill would provide for the payment of a living allowance in the case of individuals pursuing a program of education on more than a half-time basis solely by distance learning at the rate of up to 50 percent of the national average BAH E-5, adjusted based on rate of pursuit. For example, an individual enrolled at 62 percent rate of pursuit would be eligible for up to 50 percent of 60 percent of the BAH E-5 national average rate.

The Committee recognizes that the trend in higher education appears to be toward the so-called “blended” learning experience where there are components of both classroom instruction and distance learning. This blended experience is provided for under current policies and procedures since VA considers a combination of classroom and even one distance learning course as entirely classroom training.

The Committee understands that, for some individuals, pursuit of a program of education solely by distance learning may be the only manner available to them and that payment of some portion of the living allowance is appropriate. However, since one of the basic purposes of the living allowance is to offset the cost of housing away from home and since most distance learning is pursued from home, the full allowance does not appear supported at this time.

The changes made by this subsection would take effect on August 1, 2011, and would apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.

*Sec. 103. Amounts of Assistance for Programs of Education Leading to a Degree Pursued on Active Duty.*

Section 103 of the Committee bill, which is derived from S. 3447 as introduced, would provide for rates of assistance and charges to entitlement for programs of education pursued by individuals who are on active duty.

*Background.* Under current law, title 38 is silent as to the maximum amounts of educational assistance under the Post-9/11 GI Bill that VA may provide on behalf of individuals who pursue educational programs while on active duty. Therefore, VA policy and procedures are that these individuals are not subject to any State caps that generally govern the maximum amounts of tuition and fees VA may pay under that education program. In addition, individuals training while on active duty are not eligible for the \$1,000 annual payment for books.

*Committee Bill.* Section 103 of the Committee bill would amend section 3313(e) of title 38 to provide that individuals who are on active duty and who are enrolled in a program of education leading to a degree would be eligible for up to the lesser of an annualized rate of \$20,000 (adjusted annually by increases in the cost of education) or the actual cost of in-State tuition and fees (less any waiver or reduction of tuition or fees or any amount provided directly to the institution on behalf of an eligible student for the sole purpose of defraying tuition and fees). It would further provide for the payment of the book allowance to active-duty servicemembers in the same manner as this allowance is paid to veterans under the Post-9/11 GI Bill program.

In addition, this section of the Committee bill would make a conforming amendment to title 38 and would provide that the amendments made by this section would take effect 60 days after the date of enactment of the Committee bill and would apply to individuals who commence pursuit of a program of education on or after that date.

*Sec. 104. Educational Assistance for Programs of Education Pursued on Half-time Basis or Less.*

Section 104 of the Committee bill, which is derived from S. 3447 as introduced, would clarify certain provisions relating to pursuit of programs of education on a half-time-or-less basis.

*Clarification of Availability of Assistance*

*Background.* Subsection (f) of section 3313 of title 38 provides that educational assistance is available for the pursuit of programs of education on a half-time-or-less basis.

*Committee Bill.* Subsection (a) of section 104 of the Committee bill would amend section 3313(f) of title 38 to clarify that payment of educational assistance is available to individuals training on a half-time-or-less basis whether it is on active duty, it is a program leading to a degree, or it is a program of education other than a degree program. Since programs not leading to a degree might not be eligible for educational assistance under the chapter 33 program and since current law is silent on pursuit of a program while on active duty, this section of the Committee bill would clarify that assistance is available for such study on a half-time-or-less basis.

*Amount of Assistance*

*Background.* Section 3313(f)(2) of title 38 provides that the amount of educational assistance that may be paid on behalf of an individual pursuing a program of education on a half-time or less basis is the lesser of the amount that a similarly enrolled non-veteran would be required to pay or the appropriately reduced maximum amount calculated for the pursuit of a program of education (such as taking into account the State caps or the percentage tier of benefits to which the individual is entitled).

*Committee Bill.* Subsection (b) of section 104 of the Committee bill would provide that, for the purposes of calculating the maximum amount of educational assistance for students pursuing a program of education on a half-time or less basis, the actual net cost provisions discussed above in section 102(a) would apply.

*Sec. 105. Educational Assistance for Programs of Education Other Than Programs of Education Leading to a Degree.*

Section 105 of the Committee bill, which is derived from S. 3447 as introduced, would provide for the payment of educational assistance for pursuit of a program of education other than one leading to a college degree.

*Approved Programs of Education at Institutions Other Than Institutions of Higher Learning*

*Background.* Under current law, section 3313(b) of title 38 provides for the payment of educational assistance on behalf of individuals enrolled in approved programs of education only at institutions of higher learning. As a result, individuals pursuing programs at trade and technical schools, flight training schools, correspondence schools and others are not eligible for assistance under the Post-9/11 GI Bill program.

*Committee Bill.* Subsection (a) of section 105 would amend section 3313(b) of title 38 to remove the requirement that an approved program for purposes of the Post-9/11 GI Bill be offered by an institution of higher learning.

*Assistance for Pursuit of Programs of Education Other Than Programs of Education Leading to a Degree*

*Background.* Under current law, an individual enrolled in a program of education not leading to a degree is eligible for assistance only if that program is offered by an institution of higher learning as discussed in connection with subsection (a) above. Thus, individuals enrolled in certain programs of technical training, apprenticeship and on-job training, flight training, and correspondence training are not eligible for assistance under the Post-9/11 GI Bill program. However, these types of training are eligible for assistance under the MGIB and Montgomery GI Bill—Selected Reserve (hereinafter, “MGIB-SR”) program.

*Committee Bill.* Subsection (b) of section 105 of the Committee bill would authorize assistance to be paid on behalf of an individual enrolled in certain specified programs of education not leading to a degree. It would further provide that the amount of educational assistance for pursuit of non-degree programs offered in residence would be up to the lesser of the actual net cost of the program or the \$20,000 adjusted cap (as discussed above in connection with

section 102. In addition, it would provide for a payment to an enrolled individual of a living allowance and a book allowance in a manner consistent with such payments to individuals enrolled in degree-level programs at institutions of higher learning.

Subsection (b) would further provide for the payment of assistance to an individual enrolled in a full-time program of apprenticeship or other on-job training according to the following formula:

First six-month training period:	100 percent of the living allowance otherwise applicable based on the ZIP code of the employer
Second six-month training period:	80 percent of the living allowance otherwise applicable based on the ZIP code of the employer
Third six-month training period:	60 percent of the living allowance otherwise applicable based on the ZIP code of the employer
Fourth six-month training period:	40 percent of the living allowance otherwise applicable based on the ZIP code of the employer
Fifth and any subsequent training periods:	20 percent of the living allowance otherwise applicable based on the ZIP code of the employer.

In addition, a monthly stipend equivalent to the annualized amount of the book allowance would be paid to individuals enrolled in programs of apprenticeship or other on-job training in order to help cover the costs of supplies, equipment, and other items.

In the case of an individual enrolled in a program consisting entirely of flight training (regardless of the institution offering such a program), subsection (b) of this section would provide for the payment of an amount up to the lesser of the actual net cost of the program or an annually adjusted maximum cap of \$12,000 (as increased annually based on increases in the cost of education).

Finally, in the case of an individual enrolled in a program pursued entirely by correspondence (regardless of the institution offering such a program), subsection (b) of this section would provide for the payment of an amount up to the lesser of the actual net cost of the program or an annually adjusted maximum cap of \$10,000 (as increased annually based on increases in the cost of education).

So as to align the MGIB programs and the Post-9/11 GI Bill program more closely, subsection (b) of this section of the Committee bill would set forth frequency of payments and charges to entitlement for these types of training as they apply to the current MGIB and Post-9/11 GI Bill programs.

#### *Payment of Amounts to Educational Institutions*

*Background.* Section 3313(g) of title 38 specifies that payments of established charges are to be made directly to educational institutions.

*Committee Bill.* Subsection (c) of section 105 would amend section 3313(g) (as now redesignated) to provide that payment of established charges would be made directly to educational institutions in the case of certain non-degree programs, flight training, and correspondence training. The payment of benefits in the case

of apprenticeship and on-job training would be directly to the individual enrolled in such training.

Subsection (d) of section 105 would provide that the amendments made by this section of the Committee bill would take effect on August 1, 2011, and apply with respect to pursuit of programs of education on or after that date.

*Sec. 106. Determination of Monthly Housing Stipend Payments for Academic Years.*

Section 106 of the Committee bill would provide for an annual effective date for adjustments in the amount of the monthly living allowance.

*Background.* Throughout chapter 33, there are a number of references to the BAH E-5 rate and that the amount of the living allowance paid under the Post-9/11 GI Bill is to be based on that rate. While BAH rates are calculated by DOD and are adjusted annually on January 1, chapter 33 is silent on when such adjustments should be applied to the living allowance.

*Committee Bill.* Section 106 of the Committee bill would amend section 3313 of title 38 to provide that adjustments to the living allowance would be made annually on August 1. This change would take effect on August 1, 2011. This new provision is designed to coincide with adjustments made based on increases in the cost-of-education index discussed above. It further would align increases generally with what is customarily considered the start of the school year.

The Committee believes that the fewer times per year VA is required to adjust rates of any benefits, the interest of timely and accurate benefits is served.

*Sec. 107. Availability of Assistance for Licensure and Certification Tests.*

Section 107 of the Committee bill, which is derived from S. 3447 as introduced, would eliminate provisions that limit use of Post-9/11 GI Bill benefits to a single licensing or certification test with no charge to entitlement and instead permit unlimited use of benefits for such tests with a charge to entitlement.

*Background.* Under current law, section 3315 of title 38 permits individuals to receive a one-time payment of up to \$2,000 for the purposes of completing a licensure or certification test. There is no charge to the individual's entitlement for this payment and it is in addition to any other educational assistance under the Post-9/11 GI Bill.

*Committee Bill.* Section 107 of the Committee bill would remove the one-time limit on the use of benefits for purposes of completing a licensure or certification test. This would permit individuals to use Post-9/11 GI Bill benefits for multiple licensure and certification tests. It would, however, provide that entitlement would be charged for such use at the rate equivalent to one month for each \$1,667 paid (as adjusted annually based on increases in the cost of education and described in section 102, discussed above). The changes made by this section of the Committee bill would be effective on August 1, 2011.

*Sec. 108. National Tests.*

Section 108 of the Committee bill, which is derived from S. 3447 as introduced, would authorize the use of entitlement and benefits under the Post-9/11 GI Bill for the purposes of completing certain national tests required for purposes of pursuing higher learning.

*Background.* Current law makes no provision for payment of Post-9/11 GI Bill benefits for the purposes of national tests. However, for purposes of other VA education programs, benefits may be used to pay for these types of tests.

*Committee Bill.* Section 108 of the Committee bill would add a new section 3315A, National tests, to title 38. This new section would permit the payment of educational assistance benefits for two types of national tests: (1) those required for admission to an institution of higher learning and (2) those providing an opportunity for course credit at an institution of higher learning.

The Committee bill would provide that the amount of assistance paid for such tests would be the lesser of the cost of the test or the amount of entitlement available at the time of the test. It would further provide that the charge to entitlement would be determined in the same manner in which entitlement is charged for licensure and certification tests discussed in section 107 above. The changes made by this section of the Committee bill would be effective on August 1, 2011.

*Sec. 109. Continuation of Entitlement to Additional Educational Assistance for Critical Skills or Specialty.*

Section 109 of the Committee bill, which is based on discussions with VA and DOD officials, would provide a means of allowing individuals who have received additional amounts of educational assistance from DOD under the MGIB or the MGIB-SR programs to transfer and use those so-called “kickers” under the Post-9/11 GI Bill program.

*Background.* Under current law, DOD has authority under both the MGIB and the MGIB-SR to make available additional amounts of educational assistance or kickers in order to recruit or retain certain individuals or for certain critical skills. However, the Post-9/11 GI Bill does not specify how those kickers are to be paid to individuals who elect to receive benefits under the Post-9/11 GI Bill program instead of under the MGIB program or MGIB-SR.

*Committee Bill.* Section 109 of the Committee bill would amend section 3316 of title 38 by adding a new subsection (c) that would provide that individuals who are entitled to the payment of kickers and who elect to participate in the Post-9/11 GI Bill program continue to be eligible for the payment of kickers. It would further specify that the monthly rate of increased assistance payable would be based on the rate of monthly assistance that would have otherwise been paid under the MGIB or MGIB-SR programs and the rate of pursuit of a program of education.

The Committee bill would further clarify that funds for the payment of kickers would be made available from the Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made available to the Department of Homeland Security for such a purpose.

The amendments made by this section of the Committee bill would be effective August 1, 2011.



*Sec. 110. Transfer of Unused Education Benefits.*

Section 110 of the Committee bill, which is derived from S. 3447 as introduced, would amend section 3319 of title 38, to make certain changes with respect to the availability to transfer educational assistance benefits to spouses and children.

*Availability of Transfer Authority for Members of PHS and NOAA*

*Background.* Under current law, section 3319 of title 38 restricts the ability to transfer benefits to certain members of the Armed Forces. However, current policies and procedures of VA have made members of the uniformed services eligible for benefits under the Post-9/11 GI Bill. As a result, members of the Commissioned Corps of the Public Health Service and the National Oceanic and Atmospheric Administration may establish eligibility for Post-9/11 GI Bill benefits but are unable to transfer those benefits to their spouses or children.

*Committee Bill.* Subsection (a) of section 110 of the Committee bill would amend section 3319 of title 38 to provide that members of the uniformed services are eligible to transfer Post-9/11 GI Bill educational assistance benefits to their spouses and children under the terms and conditions prescribed therein.

*Scope and Exercise of Authority*

*Background.* Subsection (a) of section 3319 of title 38 permits the Secretary of Defense to authorize each of the Secretaries of the various branches of the Armed Forces, in order to promote recruitment and retention of members, to permit eligible individuals to transfer Post-9/11 GI Bill educational assistance to one or more dependents.

*Committee Bill.* Subsection (b) of section 110 of the Committee bill would add a new paragraph (2) to subsection 3319(a) of title 38 to reemphasize that the purpose of providing for transferability of benefits to dependents is to promote recruitment and retention in the uniformed services and to provide that the Secretary concerned may exercise the authority for that purpose when authorized by the Secretary of Defense in the national security interests of the United States.

Subsection (c) of section 110 of the Committee bill would provide that the provisions of this section would take effect on August 1, 2011.

*Sec. 111. Bar to Duplication of Certain Educational Assistance Benefits.*

Section 111 of the Committee bill, which is based on discussions with officials from VA and others, would amend title 38 to bar duplication of certain educational assistance benefits and other VA benefits.

*Bar to Concurrent Receipt of Transferred Education Benefits and Marine Gunnery Sergeant John David Fry Scholarship Assistance*

*Background.* Section 1002 of Public Law 111-32, the Supplemental Appropriations Act, 2009, amended the Post-9/11 GI Bill to make eligible for assistance the children of servicemembers who die in line of duty after September 10, 2001. This benefit, the so-called

“Master Gunnery Sergeant John David Fry Scholarship” (hereinafter, “Fry Scholarship”), became effective on August 1, 2009, and eligible children attending school may receive up to the highest public in-State undergraduate tuition and fees, plus a monthly living stipend and book allowance. An eligible child is entitled to the equivalent of 36 months of full-time benefits and has 15 years to use the benefits beginning on the child’s 18th birthday or up until the child turns 33 years of age.

Under other provisions of current law, such children may have eligibility for other educational assistance programs, may have had benefits transferred to them, or may have established eligibility for educational assistance based on their own service in the Armed Forces.

*Committee Bill.* Subsection (a) of section 111 of the Committee bill would add a new subsection 3322(e) of title 38 to require children who have eligibility for both the Fry Scholarship program and who have had Post-9/11 GI Bill education benefits transferred to them by a parent to elect under which program to receive benefits.

*Bar to Receipt of Compensation and Pension and Marine Gunnery Sergeant John David Fry Scholarship Assistance*

*Background.* Under existing law, the children of certain veterans are eligible for educational assistance under the Survivors’ and Dependents’ Educational Assistance program. If a child begins a program of education using those benefits, that constitutes a bar to any subsequent compensation, dependency and indemnity compensation, or pension based on the death of that child’s veteran-parent. It also constitutes a bar to additional amounts of compensation, dependency and indemnity compensation, or pension based on that child. However, similar bars to duplication of benefits were not included when the Fry scholarship was enacted.

*Committee Bill.* Subsection (b) of section 111 of the Committee bill would add a new subsection 3322(f) of title 38 that would provide that, if a child begins a program of education using Fry Scholarship benefits, that constitutes a bar to any subsequent compensation, dependency and indemnity compensation, or pension based on the death of that child’s veteran-parent. It also constitutes a bar to additional amounts of compensation, dependency and indemnity compensation, or pension based on that child.

*Bar to Concurrent Receipt of Transferred Education Benefits*

*Background.* Under section 3319 of title 38, certain service-members may transfer to their spouses and children some or all of their entitlement to educational assistance. However, current law is silent on how such transferability is to be used in the case of an individual receiving transferred benefits from more than one individual.

*Committee Bill.* Subsection (c) of the Committee bill would add a new subsection 3322(g) of title 38 that would bar concurrent receipt of transferred benefits based on the service of two different individuals and would require the transferee to elect under which source to utilize assistance at any one time.

*Bar to Duplication of Eligibility Based on a Single Event*

*Background.* Under current law, an individual entering active duty may establish eligibility for the MGIB, the Reserve Educational Assistance Program, and the Post-9/11 GI Bill based on the same period of service. For example, an individual, who entered into service on September 1, 2002, and who completed three years of service, could have established eligibility for 36 months of educational assistance under the MGIB in addition to eligibility for 36 months of educational assistance under the Post-9/11 GI Bill. Subject to the 48-month limitation on aggregate months of assistance under two or more programs provided for in section 3695 of title 38, this means that an individual, who exhausts entitlement to 36 months of training under the MGIB, can subsequently enroll and receive an additional 12 months of entitlement under the Post-9/11 GI Bill based on the same period of service.

In addition, the child of an individual who dies while on active duty may be eligible for up to 45 months of educational assistance under chapter 35 of title 38, Survivors' and Dependents' Educational Assistance. This assistance would be in addition to assistance available under the Fry Scholarship program and any assistance transferred to the child by the servicemember.

*Committee Bill.* Subsection (d) of the Committee bill would add a new subsection 3322(h) of title 38 that would require that individuals who establish eligibility under two or more chapters of title 38 or under chapters 1606 and 1607 of title 10, to elect under which authority to credit a period of service. In addition, it would provide that, if the child of a member of the Armed Forces is eligible for benefits under both the Fry Scholarship and Survivors' and Dependents' Educational Assistance program by reason of the death of the child's parent, the child must elect under which program to receive educational assistance.

Subsection (e) of the Committee bill would provide that the amendments made by section 111 would be effective on August 1, 2011.

*Sec. 112. Technical Amendments.*

Section 112 of the Committee bill would make a series of technical and conforming amendments to chapter 33 of title 38.

TITLE II—OTHER EDUCATIONAL ASSISTANCE MATTERS

*Sec. 201. Extension of Delimiting Dates for use of Educational Assistance by Primary Caregivers of Seriously Injured and Veterans and Members of the Armed Forces.*

Section 201 of the Committee bill, which is derived from VA's draft bill, the Veterans Benefit Programs Improvement Act of 2010, as transmitted to the Congress on May 26, 2010, would amend title 38 to permit the extension of delimiting dates for eligible individuals who could not pursue or had to interrupt a program of education in order to act as the primary caregiver for a veteran or servicemember who was seriously injured while on active duty on or after September 11, 2001.

*Background.* Under current law, individuals eligible for the MGIB or the Post-9/11 GI Bill are eligible for an extension of time during which benefits may be used (the so-called "delimiting date")

by virtue of certain disabilities which prevented the pursuit of a program of education. In the case of a child who is eligible for benefits under the chapter 35 program (Survivors' and Dependents' Educational Assistance program), a delimiting date may be extended if the child suspends training for reasons beyond the control of the child; however, the child must have interrupted a program in order to be eligible for the extension.

On May 5, 2010, Public Law 111-163, the Caregivers and Veterans Omnibus Health Services Act of 2010, established a program under which family members may be appointed primary caregivers of certain seriously injured veterans and servicemembers injured while on active duty on or after September 11, 2001. Such family members are eligible for a monthly stipend as well as a program of comprehensive assistance including mental health services, ongoing technical support, counseling, and lodging and subsistence while accompanying the injured veteran or servicemember for VA medical care.

*Committee Bill.* The Committee bill would amend chapters 30, 33, and 35 of title 38 to provide that, in addition to the existing authorities for extensions, an extension of the applicable delimiting date may be available for a period of time equal to the time a primary caregiver was unable to pursue or had to interrupt a program of education because of that individual's status as a primary caregiver under Public Law 111-163. These changes would take effect on August 1, 2011, and would apply with respect to preventions or suspensions of programs of education that commence on or after that date.

The Committee believes that such extensions would give individuals the flexibility to complete their educational goals while still meeting the needs of the veteran or servicemember for care.

*Sec. 202. Limitations on Receipt of Educational Assistance under National Call to Service and other Programs of Educational Assistance.*

Section 202 of the Committee bill, which is derived from S. 3447 as introduced, would amend title 38 to limit concurrent receipt of educational assistance under the National Call to Service (hereinafter, "NCS") program and other programs of educational assistance.

*Background.* Under current law, sections 3322(a) and 3681(b)(2) of title 38, concurrent receipt of educational assistance under certain programs of educational assistance is prohibited. The prohibition applies to programs provided for by chapters 30, 31, 32, 33, 34, and 35 of title 38, as well as those under chapters 1606 and 1607 of title 10. It also includes programs authorized by section 903 of the Department of Defense Authorization Act, 1981, the Hostage Relief Act of 1980, and the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

Section 531 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314) established a new enlistment option under which all service branches were required to develop a shortened enlistment program by October 1, 2003, under the NCS Initiative. Following a shortened active-duty commitment, individuals were required to re-enlist on active duty or serve two years in the active National Guard or Reserves. Following this second period of obligated service, individuals were

then required to complete the eight-year total commitment by re-enlisting or serving in the Selected or Inactive Reserves.

In exchange for this service, individuals were eligible to receive one of the following:

- Payment of a bonus in the amount of \$5,000
- Payment in an amount not to exceed \$18,000 of outstanding principal and interest on qualifying student loans
- An “Education Allowance” which is equal to full MGIB education rates for up to 12 months of education
- An “Education Allowance” which is equal to 1/2 monthly MGIB rates for up to 36 months of education.

*Committee Bill.* Section 202 of the Committee bill would amend sections 3322(a) and 3681(b)(2) of title 38 to clarify that duplication and concurrent receipt of education benefits under more than one education program is also prohibited with respect to the NCS program.

*Sec. 203. Approval of Courses.*

Section 203 of the Committee bill, which is also derived from VA’s draft bill, the Veterans Benefit Programs Improvement Act of 2010, as transmitted to the Congress on May 26, 2010, would amend various sections of chapter 36 of title 38 to expand VA’s authority regarding approval of courses for the enrollment of veterans (and other eligible persons) who are in receipt of VA-administered educational assistance programs and to better utilize the services of SAAs.

*Background.* Under current law, section 3671 of title 38, each State is requested to appoint an SAA for the purposes of approving programs of education and training and VA enters into contracts with each SAA. Section 3672 of title 38 provides that eligible individuals may only receive educational assistance allowances if the course of education they are taking is approved by the applicable SAA or, in the case of a program offered by the Federal Government or an apprenticeship program where the training establishment is directly engaged in interstate commerce, by the Secretary. Chapter 36 of title 38 also contains additional provisions relating to the approval of accredited programs, non-accredited programs, apprenticeship training programs, other on-the-job training programs, correspondence programs, and flight training programs.

A U.S. Government Accountability Office (hereinafter, “GAO”) report (GAO–07–384, March 2007) recommended that VA take action to reduce the overlap of SAA functions with functions performed by the Departments of Labor and Education in approving education and training programs.

*Committee Bill.* The Committee bill would amend current law to provide greater authority for the Secretary to utilize the SAAs more effectively and to reduce overlap with other agencies. It would deem various programs and courses to be approved for VA purposes if they are approved by other agencies for programs under their jurisdiction. It would further specifically authorize the disapproval of any course by the Secretary if it is found that the approval criteria set forth in chapter 36 are not met. It would further authorize the Secretary to utilize the resources of the SAAs for additional compliance and oversight activities that are deemed appropriate.

The Committee concurs in VA's belief that these amendments will contribute to streamlining the administration of educational assistance benefits and improve the delivery of benefits to veterans, reservists, and other eligible individuals. The Committee further believes that the SAAs represent a valuable resource for VA as the implementation of the new Post-9/11 GI Bill continues, particularly as they might identify issues and problems that may arise regarding the possible misuse of benefits and instances of fraud, misrepresentation, and abuse. Finally, the Committee recognizes the role of the SAAs as a link between educational institutions and VA that assist institutions in providing education and training opportunities to eligible students, as well as representing an important outreach tool.

The Committee intends to monitor the approval process very closely as these new procedures are set in place and to respond quickly and appropriately should the need arise.

*Sec. 204. Reporting Fees.*

Section 204 of the Committee bill, which is derived from S. 3447 as introduced, would increase the amount of reporting fees paid by VA to educational and training institutions and would require that any fees paid be used by the institutions solely for the making of certifications required by title 38 or for supporting programs for veterans.

*Background.* Section 3684(c) of title 38 provides for the payment of reporting fees to educational and training facilities based on the number of veterans or other eligible students enrolled. Current law provides that the amount paid per eligible student is \$7 or, in the case of an institution that accepts advance payments from VA, \$11 per student.

Under current law, fees received by institutions are not restricted in any way and may be used by schools and training establishments for any purpose.

*Committee Bill.* The Committee bill would amend section 3684(c) so as to increase the reporting fees paid from \$7 and \$11 to \$12 and \$15, respectively. This change would take effect on August 1, 2011.

The last time these fees were increased was in 1977 when the GI Bill Improvements Act became Public Law 95-202. The Committee believes that the increased fees are not only justified by virtue of not having been increased in more than 30 years but also by the increased, complex, and complicated certifications institutions are required to submit to VA.

Nevertheless, the Committee is concerned that these fees could be used by institutions for purposes other than meeting the needs of veteran-students. Therefore, the Committee bill would require that fees received by schools and training establishments be used to offset the cost of certifications or to support other veteran programs on campus.

*Sec. 205. Election for Receipt of Alternate Subsistence Allowance for Certain Veterans with Service-Connected Disabilities Undergoing Training and Rehabilitation.*

Section 205 of the Committee bill, which is derived from S. 3447 as introduced, would permit veterans who have eligibility for both

vocational rehabilitation and training under chapter 31 of title 38 and under the new Post-9/11 GI Bill, to elect under which program to receive a living or subsistence allowance.

*Background.* Under VA's chapter 31 program of training and rehabilitation for veterans with service-connected disabilities, veterans enrolled in training may be eligible to receive a subsistence allowance. Section 3108(b) of title 38 sets forth the rate for these allowances and their periodic increase based on increases in the cost-of-living index.

Based on current law, the subsistence allowance payable to a single veteran living in Portland, OR, and enrolled in a program of training and rehabilitation at a public institution of higher learning on a full-time basis would be \$547.54 per month. Under the chapter 33 Post-9/11 GI Bill, that same veteran enrolled in the same program would be eligible to receive a living allowance of \$1,299 monthly.

*Committee Bill.* The Committee bill would amend section 3108(b) of title 38 so as to permit individuals who have eligibility for both the chapter 31 program and the chapter 33 program to elect whether to receive the chapter 31 subsistence allowance or the chapter 33 living allowance. This change would take effect on August 1, 2011.

The Committee is concerned that the greater benefit available under the chapter 33 program provides a disincentive for service-connected disabled veterans to enroll in the chapter 31 program, which means they would forego the important and valuable benefits, services, counseling, and employment assistance support that are available under the chapter 31 program of training and rehabilitation. By permitting eligible veterans to select the higher allowance, this disincentive would be removed.

*Sec. 206. Modification of Authority to Make Certain Interval Payments.*

Section 206 of the Committee bill, which is derived from S. 3447 as introduced, would modify VA's authority to make certain payments between breaks in programs of education.

*Background.* Under current law, section 3680(a) of title 38 permits individuals enrolled in programs of education and training under all programs of VA educational assistance to receive payments during specified periods when pursuit is interrupted. These include periods of time when schools are temporarily closed due to an emergency situation, during periods of time during consecutive enrollments when students are transferring from one institution to another, and during periods between enrollment periods not exceeding eight weeks.

*Committee Bill.* The Committee bill would amend section 3680(a) of title 38 so as to reduce the period of time between enrollment periods during which an interval payment could be made from eight weeks to four weeks during any one year.

The Committee is concerned that, since the months of educational assistance available to eligible veterans and others is, in most cases, equal to the number of months needed to attain an educational objective, using entitlement for months during which a student is not actively pursuing an educational goal unnecessarily uses months of entitlement that could be otherwise utilized and re-

sults in the student's inability to complete an educational objective with available assistance.

COMMITTEE BILL COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the CBO, estimates that enactment of the Committee bill would, relative to current law, increase spending by \$X million 20XX and by \$X million over the 20XX–20XX period. Enactment of the Committee bill would not affect direct spending or receipts and would not affect the budget of State, local or tribal governments.

The cost estimate provided by CBO, setting forth a detailed breakdown of costs, follows:

CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 6, 2010.*

Hon. DANIEL K. AKAKA,  
*Chairman,*  
*Committee on Veterans' Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3447, the Post-9/11 Veterans Educational Assistance Improvements Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is William Ma.

Sincerely,

DOUGLAS W. ELMENDORF,  
*Director.*

Enclosure.

*S. 3447—Post-9/11 Veterans Educational Assistance Improvements Act of 2010*

Summary: S. 3447 would modify existing education benefits offered to active-duty servicemembers, reserve members, veterans, and qualifying dependents of those who served in the Armed Forces on or after September 11, 2001. If enacted, CBO estimates this bill would increase direct spending for veterans readjustment benefits by about \$1.3 billion over the 2011–2015 period and about \$2.3 billion over the 2011–2020 period.<sup>1</sup>

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting the bill would not affect revenues and would have no significant impact on spending subject to appropriation.

S. 3447 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3447 is shown in Table 1. The costs of this legislation fall within budget function 700 (veterans benefits and services).

<sup>1</sup>Different time periods are relevant for enforcing the current pay-as-you-go rules in the Senate and the House of Representatives. CBO estimates that enacting S. 3447 would increase direct spending by about \$1 billion over the 2011–2014 period and by about \$2.1 billion over the 2011–2019 period.



Table 1.—Estimated Budgetary Impact of S. 3447, The Post-9/11 Veterans Educational Assistance Improvements Act of 2010

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020	
CHANGES IN DIRECT SPENDING													
Expansion of Educational Programs													
Estimated Budget Authority .....	63	190	304	315	311	307	304	300	296	293	1,183	2,683	
Estimated Outlays .....	63	190	304	315	311	307	304	300	296	293	1,183	2,683	
Payments for Education Assistance													
Estimated Budget Authority .....	34	-173	-178	-190	-210	-231	-244	-250	-253	-257	-717	-1,952	
Estimated Outlays .....	34	-173	-178	-190	-210	-231	-244	-250	-253	-257	-717	-1,952	
Eligibility for Post-9/11 GI Bill Education Benefits													
Estimated Budget Authority .....	137	164	177	172	165	158	150	145	149	154	815	1,571	
Estimated Outlays .....	137	164	177	172	165	158	150	145	149	154	815	1,571	
Other Provisions													
Estimated Budget Authority .....	5	-1	-2	-1	-2	-3	-4	-5	-5	-5	-1	-23	
Estimated Outlays .....	5	-1	-2	-1	-2	-3	-4	-5	-5	-5	-1	-23	
Total Changes in Direct Spending													
Estimated Budget Authority ..	239	180	301	296	264	231	206	190	187	185	1,280	2,279	
Estimated Outlays .....	239	180	301	296	264	231	206	190	187	185	1,280	2,279	

Basis of estimate: S. 3447 would modify the eligibility requirements for receiving benefits under the Post-9/11 GI Bill and adjust the amount of education assistance available to current and future beneficiaries. This estimate is based on information from the Department of Defense (DOD), the Department of Veterans Affairs (VA), the National Guard Bureau, the U.S. Coast Guard, the National Center for Education Statistics, and the College Board. CBO assumes the bill will be enacted by the end of calendar year 2010.

#### *Expansion of Educational Programs*

Under the Post-9/11 GI Bill, only veterans attending programs offered by degree-granting institutions of higher learning may receive education assistance. Several provisions in S. 3447 would expand eligibility to cover other forms of education and training, including certificate programs, apprenticeships, on-the-job training, flight training, and correspondence training. If enacted, CBO estimates that the following provisions would increase direct spending by \$2.7 billion over the 2011–2020 period (see Table 2).

Table 2.—Impact of S. 3447 on Educational Programs Eligible for Assistance Under the Post-9/11 GI Bill

	Outlays, by fiscal year, in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Certificate and Non-Degree Programs .....	2	21	35	51	54	57	59	62	65	69	163	475
Apprenticeship and On-the-Job Training ....	11	67	67	62	55	48	42	35	28	21	262	436
Flight Training .....	*	1	1	1	1	1	2	2	2	2	4	13
Montgomery GI Bill Contributions .....	50	101	201	201	201	201	201	201	201	201	754	1,759
Total Changes in Direct Spending ....	63	190	304	315	311	307	304	300	296	293	1,183	2,683

Notes: Components may not sum to totals because of rounding; \* = less than \$500,000.

*Certificate and Non-Degree Programs.* Section 105 would expand the definition of approved education programs to include certificate

and non-college degree programs. CBO estimates this provision would result in about 6,000 additional veterans using the Post-9/11 GI Bill per year, with each using approximately \$8,000 a year in education benefits. Over the 2011–2020 period, CBO estimates the payment of tuition, fees, housing stipends, and annual book allowances to qualifying individuals would increase direct spending by about \$475 million.

*Apprenticeship and On-the-Job Training.* Section 105 also would expand the definition of approved programs to include apprenticeship and on-the-job training programs. CBO estimates that the number of individuals receiving Post-9/11 GI Bill benefits would increase by about 4,700 in 2011 and almost 6,800 by 2020 if those provisions were enacted. In addition, we estimate that amounts payable under section 105 for those programs would be about 30 percent and 55 percent greater than amounts currently paid under the Montgomery GI Bill (MGIB) and the Reserve Educational Assistance Program (REAP), respectively, in 2011. (While significantly higher in 2011, we expect that those differences would decrease over time as both the current and newly proposed rates are tied to different inflation indices.) CBO estimates the increase in users and benefit amounts and the migration of MGIB and REAP users seeking the higher Post-9/11 GI Bill benefit would increase direct spending by about \$436 million over the 2011–2020 period.

*Flight Training.* Section 105 would expand the definition of approved education programs to include flight training. The amount of assistance payable would equal the actual cost of tuition and fees or \$12,000, adjusted annually for inflation, whichever is less. That rate is comparable to the amount currently paid for flight training under MGIB, but is greater than the amount currently paid for such training under REAP. CBO estimates that about 160 REAP flight trainees each year would benefit from this provision. In 2011, we estimate those trainees would each use an average of \$8,000 in education benefits. After taking into consideration annual increases in tuition costs, we estimate the average benefit would grow to \$13,000 by 2020. In total, CBO estimates this provision would increase direct spending by about \$13 million over the 2011–2020 period.

*Correspondence Training.* Finally, section 105 would expand the definition of approved education programs to include correspondence training. Assistance for correspondence courses would equal the lesser of the actual cost of tuition and fees or \$10,000, adjusted annually for inflation. An average of 780 MGIB users over each of the past three years participated in correspondence training at an average annual cost of \$210 per user. With the increased availability of other forms of distance education opportunities, CBO assumes the number of correspondence students will decline from about 700 users in 2011 to about 270 users in 2020. Thus, we estimate the total increase in direct spending for correspondence students would be less than \$500,000 over the 2011–2020 period.

*Montgomery GI Bill Contributions.* Section 109 would authorize DOD to use the Education Benefits Fund to pay supplemental educational assistance offered under the Post-9/11 GI Bill. DOD currently offers such assistance through the MGIB program to support the recruitment and retention of individuals with specialized skills. This assistance provides up to \$950 per month in addition to the

basic educational assistance to which an individual is otherwise entitled and is drawn from the DOD Education Benefits Fund. Under current law, supplemental assistance offered under the Post-9/11 GI Bill cannot be paid from that fund. Instead, servicemembers must enroll in MGIB and contribute \$1,200 through payroll deductions to receive the supplemental assistance. They are then allowed to transfer to the more generous Post-9/11 GI Bill and retain entitlement to the supplemental benefit.

Under section 109, servicemembers would no longer be required to enroll in MGIB to receive supplemental educational assistance. CBO believes this provision, combined with the provisions that expand the programs eligible for assistance under the Post-9/11 GI Bill, would eliminate any remaining incentive for servicemembers to enroll in MGIB. CBO estimates the loss of those MGIB contributions (currently counted as offsets to direct spending) would increase direct spending by about \$1.8 billion over the 2011–2020 period.

*Payments for Education Assistance*

Sections 102, 103, 104, and 106 would modify amounts payable for tuition, fees, housing stipends, and book allowances under the Post-9/11 GI Bill. Section 205 would modify amounts payable to certain veterans with service-connected disabilities. In addition, section 206 would modify the conditions under which interval payments may be paid to students between school terms. CBO estimates that enacting those provisions would, on net, decrease direct spending for veterans education by about \$2 billion over the 2011–2020 period (see Table 3).

Table 3.—Impact of S. 3447 on Amounts Payable for Education Assistance

	Outlays, by fiscal year, in millions of dollars—												2011–2015	2011–2020
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020				
Interval Payments .....	0	-212	-214	-215	-220	-225	-230	-236	-244	-253	-861	-2,049		
Cap on Tuition and Fees .....	61	140	155	167	177	188	201	215	231	247	700	1,782		
Tuition and Fees, Net of Financial Assistance .....	-28	-64	-71	-78	-84	-90	-96	-103	-110	-118	-325	-842		
Modifications to Monthly Housing Stipend .....	-9	-74	-87	-105	-127	-149	-165	-173	-178	-183	-402	-1,250		
Housing Stipend in Lieu of Subsistence Allowance .....	4	23	24	26	28	29	30	31	32	33	105	260		
Allowance for Active-Duty Books and Supplies .....	6	14	15	15	16	16	16	16	16	17	66	147		
Total Changes in Direct Spending ..	34	-173	-178	-190	-210	-231	-244	-250	-253	-257	-717	-1,952		

Note: Components may not sum to totals because of rounding.

*Interval Payments.* Section 206 would modify the conditions under which the Secretary of Veterans Affairs may make payments to students during the interval between consecutive school terms. Under current law, VA may continue to pay education benefits during intervals between semesters, quarters, or summer sessions. This section of S. 3447 would allow payment only during periods when schools are temporarily closed under an Executive Order of the President or because of an emergency situation. CBO estimates that an average of 260,000 students will receive interval payments averaging \$875 per year under current law. Under this provision, we expect interval payments would be paid very rarely; thus, we

estimate this provision would result in savings of about \$2 billion over the 2011–2020 period.

*Cap on Tuition and Fees.* Under sections 102, 103, and 104, amounts payable to public institutions for veterans education would equal the actual cost of in-state tuition and fees, reduced by the amount of any institutional, state, federal, or employer-based financial assistance specifically designated to defray tuition and fee expenses. Amounts payable to private and foreign institutions would be limited to the actual cost of tuition and fees or \$20,000, adjusted annually for inflation, whichever is less. Under current law, the Post-9/11 GI Bill pays the actual cost of tuition and fees up to the highest in-state tuition charged by a public educational institution in the state where the school is located. For students enrolled at foreign institutions of higher learning, the Post-9/11 GI Bill pays the actual cost of tuition and fees up to the average amount of tuition and fees paid to undergraduate in-state students throughout the United States.

Based on information from VA, CBO estimates that the national average of the highest in-state tuition and fees payable for Post-9/11 GI Bill users will be about \$17,300 in 2011. Under current law, students attending institutions where tuition and fees exceed their state's cap may be eligible for additional assistance under the Yellow Ribbon GI Education Enhancement Program. When an institution enters into a Yellow Ribbon Program (YRP) agreement with VA, it agrees to cover a portion of the student's tuition shortfall. VA then matches the institution's contribution to further reduce or eliminate the student's out-of-pocket expenses.

The proposed \$20,000 cap would result in a 16 percent increase in payments over amounts that would be paid using the formula cap under current law. The new cap also would raise the threshold for when a participating institution's YRP contributions would take effect. CBO estimates that approximately 105,000 students will attend private and foreign institutions in 2011, and about 65,000 of them will receive funds through the YRP. In total, CBO estimates that instituting a \$20,000 per year cap on tuition and fees paid to private and foreign institutions would increase direct spending by about \$1.8 billion over the 2011–2020 period.

*Tuition and Fees, Net of Financial Assistance.* In estimating the net cost of tuition and fees after applying available financial assistance, CBO expects that total financial assistance received by beneficiaries of the Post-9/11 GI Bill will be significantly less than amounts received by comparable nonveterans. Education institutions would realize that the assistance offered to eligible veterans would reduce the amounts paid by VA rather than by the student. Thus, they would allocate their limited aid dollars to other students. Also, we expect that few, if any, users of the Post-9/11 GI Bill would take the time to apply for scholarships specifically designated to defray tuition and fee expenses if their efforts result in reducing amounts paid by VA. Drawing on financial assistance data from the College Board, CBO estimates the average amount of assistance per user (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) received by beneficiaries of the Post-9/11 GI Bill to be about \$215—a fraction of the average amount provided to comparable nonveterans.

Such savings would reduce direct spending by \$842 million over the 2011–2020 period, CBO estimates.

*Modifications to Monthly Housing Stipend.* Section 106 would delay the annual increase in housing stipends from January 1 to August 1, the beginning of the academic year. Stipend payment rates established on August 1 would remain effective throughout the entire academic year. Those payments would be further adjusted by section 102 to reflect whether a student is attending on a full-time or part-time basis. In addition, section 102 would provide monthly housing stipends to students pursuing programs entirely through distance education who are enrolled on more than a half-time basis and not serving on active duty. Under current law: annual increases in housing stipends go into effect January 1 of each year; students are paid the current monthly stipend rate regardless of the academic calendar; students who pursue programs of education on more than a half-time basis are paid the full amount of the stipend; and students who pursue programs of education solely through distance learning are not entitled to a housing stipend. Collectively, the proposed stipend adjustments would result in net savings of about \$1.3 billion over the 2011–2020 period.

*Housing Stipend in Lieu of Subsistence Allowance.* Section 205 would allow veterans with service-connected disabilities that participate in a program of vocational rehabilitation under chapter 31 of title 38 of the U.S. Code, and who are also entitled to Post-9/11 GI Bill education benefits, to choose whether to receive the monthly housing stipend payable under the Post-9/11 GI Bill or a monthly subsistence allowance. Under current law, those veterans must withdraw from the vocational rehabilitation program in order to receive Post-9/11 GI Bill benefits. In doing so, they are no longer entitled to the counseling and support services provided by the vocational rehabilitation program. Based on information from VA, CBO estimates that, on average, about 21,000 of the individuals who participate in the vocational rehabilitation program each year would choose the housing stipend payment over the subsistence payment. We estimate that the average monthly housing stipend will be about \$600 greater than the average subsistence payment in 2011; after taking into consideration cost-of-living increases, we estimate that the difference will grow to \$670 by 2020. If enacted, CBO estimates that section 205 would increase direct spending by \$260 million over the 2011–2020 period.

*Allowance for Active-Duty Books and Supplies.* Under section 103, active-duty servicemembers would be eligible for an annual allowance of \$1,000 for books and supplies. CBO estimates that making that allowance available to the estimated 19,000 users of the Post-9/11 GI Bill that are on active duty in 2011—increasing to 25,000 by 2020—would increase direct spending by \$147 million over the 2011–2020 period.

*Eligibility for Post-9/11 GI Bill Education Benefits*

Section 101 would amend the eligibility requirements for the Post-9/11 GI Bill that apply to certain National Guard members, servicemembers receiving less than honorable discharges, and graduates of the Coast Guard Academy. On net, CBO estimates

that enacting those provisions would increase direct spending by about \$1.6 billion over the 2011–2020 period (see Table 4).

Table 4.—Impact of S. 3447 on Post-9/11 GI Bill Education Benefit Eligibility

	Outlays, by fiscal year, in millions of dollars—											2011–2015	2011–2020
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020			
National Guard .....	158	186	199	195	189	182	175	171	176	183	927	1,814	
Honorable Service Requirement .....	-21	-22	-22	-23	-24	-24	-25	-26	-27	-28	-112	-242	
Coast Guard Academy Graduates .....	0	0	0	0	0	*	*	*	*	*	*	-1	
Total Changes in Direct Spending ....	137	164	177	172	165	158	150	145	149	154	815	1,571	

Notes: Components may not sum to totals because of rounding; \* = less than \$500,000.

*National Guard.* Under current law, service in the Active-Guard Reserve Program as well as service performed by National Guardsmen called to duty by the President or the Secretary of Defense under section 502(f) of title 32, U.S. States Code, are not recognized as qualifying service under the Post-9/11 GI Bill. For servicemembers who performed such duties, education benefits are limited to MGIB and REAP. Section 101 would recognize such full-time duty as qualifying service for benefits under the Post-9/11 GI Bill. Based on information obtained from the National Guard Bureau, CBO estimates that under this provision, an additional 131,000 National Guardsmen would be immediately eligible for benefits and that each year 8,000 additional National Guardsmen would qualify for benefits. The addition of this newly eligible population would result in about a 25 percent increase in total reservists eligible for benefits. Assuming a proportionate increase in usage, plus an estimated 5 percent increase in usage from those who are currently eligible but would not have otherwise used education benefits, CBO estimates that under this provision direct spending would increase by about \$1.8 billion over the 2011–2020 period.

*Honorable Service Requirement.* Servicemembers discharged or released from active duty because of a preexisting medical condition, hardship, or a physical or mental condition not considered a disability are eligible for education benefits under the Post-9/11 GI Bill, regardless of the type of discharge they receive. Section 101 would limit eligibility for the Post-9/11 GI Bill for such veterans to those whose service was characterized as honorable. Based on information from the DOD, approximately 2,900 veterans per year would no longer be eligible for education assistance under that limitation. CBO estimates that, under current law, approximately half of those veterans will each use about \$15,000 in benefits in 2011 and, after cost-of-living increases, about \$20,000 in benefits in 2020. If enacted, this provision would reduce direct spending by \$242 million over the 2011–2020 period, CBO estimates.

*Coast Guard Academy Graduates.* This provision would delay eligibility for Post-9/11 GI Bill benefits for graduates of the Coast Guard Academy, aligning their eligibility with graduates of the other three Military Academies. Currently, Coast Guard Academy graduates do not have to fulfill their service obligation, as is required of graduates from the other Military Academies, before using benefits under the Post-9/11 GI Bill. Based on information from the U.S. Coast Guard, CBO estimates that about 105 Academy graduates, from the graduating classes of 2015–2020, would

have each used about \$8,000 in education benefits within their obligated service period. CBO estimates that this change in eligibility would reduce direct spending by about \$1 million over the 2011–2020 period.

#### *Other Provisions*

Several other provisions of S. 3447 would make changes to other education assistance programs. CBO estimates that enacting those provisions would reduce direct spending by \$23 million over the 2011–2020 period (see Table 5).

Table 5.—Impact of S. 3447 on Other Education Assistance Provisions

	Outlays, by fiscal year, in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Bar to Duplication of Benefits .....	-1	-9	-10	-11	-10	-11	-12	-14	-15	-16	-41	-109
Transfer of Unused Education Benefits .....	2	4	4	5	3	4	4	5	5	6	18	42
Reporting Fees .....	4	4	4	4	4	4	4	4	4	4	20	40
Licensure and Certification Tests .....	*	*	*	*	*	*	*	*	*	*	2	4
<b>Total Changes in Direct Spending .....</b>	<b>5</b>	<b>-1</b>	<b>-2</b>	<b>-1</b>	<b>-2</b>	<b>-3</b>	<b>-4</b>	<b>-5</b>	<b>-5</b>	<b>-5</b>	<b>-1</b>	<b>-23</b>

Notes: Components may not sum to totals because of rounding; \* = less than \$500,000.

*Bar to Duplication of Benefits.* Sections 111 and 202 would prohibit individuals from concurrently receiving benefits under the Post-9/11 GI Bill and under the following education assistance programs: the Marine Gunnery Sergeant John David Fry Scholarship; National Call-to-Service education assistance; and Survivors' and Dependents' Education Assistance benefits. Dependents also would not be allowed to concurrently use education benefits transferred from more than one servicemember. In addition, section 111 would reduce or eliminate certain dependency and indemnity compensation (DIC) or pension payments for those receiving benefits through the Post-9/11 GI Bill or those whose dependents receive such benefits. CBO estimates those provisions would affect approximately 320 recipients and 1,800 surviving spouses receiving DIC payments in 2011 (only two months of savings would be realized from those affected individuals in 2011 because of the specified effective date of August 1, 2011). Under current law, each of the 320 recipients of education benefits may receive, on average, about \$11,300 in concurrent education benefits and each of the 1,800 surviving spouses with a child attending school under the Marine Gunnery Sergeant John David Fry Scholarship may receive about \$230 in additional monthly DIC payments. CBO estimates that prohibiting those payments would result in savings of \$109 million over the 2011–2020 period.

*Transfer of Unused Education Benefits.* Section 110 would allow qualifying uniformed members of the U.S. Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA) to transfer unused education benefits from the Post-9/11 GI Bill to their dependents. Currently, those uniformed members are not allowed to transfer those benefits. Based on information from PHS and NOAA, CBO estimates that under this provision 200 dependents would use about \$10,200 in Post-9/11 GI Bill benefits in 2011 and that, by 2020, 300 dependents would each use about

\$19,200 in education benefits. In total, we estimate that direct spending would increase by \$42 million over the 2011–2020 period.

*Reporting Fees.* Reporting fees are payable to educational institutions at a rate of \$7 per eligible enrolled veteran or \$11 in cases where educational institutions assume temporary custody of education assistance checks until the time of registration. Section 204 would increase the amount of those fees from \$7 and \$11 to \$12 and \$15, respectively. CBO estimates that change would increase direct spending by \$40 million over the 2011–2020 period.

*Licensure and Certification Tests.* The Post 9/11 GI Bill provides both an entitlement to 36 months of education benefits and to having the fees paid for one examination related to licensing and certification.

Section 107 would allow eligible individuals to have multiple examinations paid for, but would reduce their remaining entitlement by one month for every \$1,667 spent on examination fees. Thus, while this provision would allow students to have more tests paid for, it would eliminate the current “free,” or non-chargeable, test. Based on an analysis of data about the use of MGIB funds to pay for licensure and certification tests, CBO estimates that, on net, this provision would increase direct spending by \$4 million over the 2011–2020 period.

*National Exams.* Section 108 would allow eligible individuals to use their Post-9/11 GI Bill benefits to pay fees for exams, such as the Scholastic Aptitude Test, Law School Admission Test, Graduate Record Exam, and Graduate Management Admission Test, as well as for tests providing course credit at institutions of higher learning, such as Advanced Placement exams and College-Level Examination Program tests. Like licensure and certification tests, all payments made for such exams would reduce an individual’s remaining benefits by one month for every \$1,667 spent on examination fees. Based on an analysis of data on the use of MGIB funds for national exams, CBO estimates that this provision would increase direct spending by less than \$500,000 over the 2011–2020 period.

*Extension of Delimiting Dates.* Section 201 would extend the availability of education benefits for individuals designated as caregivers of disabled veterans under section 1720G of title 10 of the U.S. Code. The length of the extension would match the period of time an individual was prevented from using benefits while caring for a disabled veteran. CBO estimates that extension would increase direct spending by less than \$500,000 over the 2011–2020 period.

*Pay-As-You-Go Considerations:* The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending and revenues. CBO estimates that by modifying the eligibility requirements and amounts payable for current and future users of the Post-9/11 GI Bill, S. 3447 would increase direct spending for veterans’ education benefits. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.



CBO Estimate of Pay-As-You-Go Effects for S. 3447 as Ordered Reported by  
the Senate Committee on Veterans' Affairs on August 5, 2010

	Outlays, by fiscal year, in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011– 2015	2011– 2020
NET INCREASE IN THE DEFICIT												
Statutory Pay-As-You-Go Impact .....	239	180	301	296	264	231	206	190	187	185	1,280	2,279

Estimated impact on State, local, and tribal governments: S. 3447 contains no intergovernmental mandates as defined in UMRA. Public institutions of higher education would benefit from an increase in fees paid to them for reporting enrollment information to the Department of Veterans Affairs.

Estimated impact on the private sector: S. 3447 contains no private-sector mandates as defined in UMRA.

*Estimate prepared by:* Federal Costs: Readjustment Benefits: William Ma; Compensation, Pensions, and Burial Benefits: Dwayne Wright; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Elizabeth Bass.

*Estimate approved by:* Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact that would be incurred in carrying out the Committee bill. The Committee finds that the Committee bill would not entail any regulation of individuals or businesses or result in any impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by members of the Committee on Veterans' Affairs at its August 5, 2010, meeting. The Committee, by unanimous voice vote, ordered the Committee bill reported favorably to the Senate, with an amendment in the nature of a substitute.

AGENCY REPORT

On July 21, 2010, Keith M. Wilson, Director, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, appeared before the Committee and submitted testimony on S. 3447, among other issues. Excerpts from this statement are reprinted below:

STATEMENT OF KEITH M. WILSON, DIRECTOR, EDUCATION  
SERVICE, DEPARTMENT OF VETERANS AFFAIRS

Good morning, Mr. Chairman, Ranking Member Burr, and other Members of the Committee. I am pleased to be here today to provide the Department of Veterans Affairs' (VA) views on several bills that would affect educational assistance benefits for Veterans, Servicemembers, and their dependents—most notably, S. 3447. I am accompanied today by Mr. John Brizzi of VA's Office of the General Counsel.

Let me start by congratulating you, Mr. Chairman, and your staff, as well as the many other Senators who have worked to put forward legislation to make improvements to the educational programs VA administers on behalf of our Nation's Veterans. The Department appreciates your staff's consultation throughout the entire process. Implementation of the historic Post-9/11 GI Bill was, and is, a top priority for President Obama, Secretary Shinseki, and the entire Department. Secretary Shinseki is committed to making sure that all eligible student Veterans who are interested receive the education benefits they earned in defense of our Nation. Since inception of this historic new program, VA has issued nearly \$4.0 billion in Post-9/11 GI Bill benefit payments to over 295,000 individuals and their educational institutions.

S. 3447

Mr. Chairman, your bill—S. 3447, the "Post-9/11 Veterans Educational Assistance Improvements Act of 2010"—would enhance certain provisions of the Post 9/11 GI Bill (chapter 33 of title 38, United States Code), as well as make improvements in other VA educational assistance programs.

Under the Post-9/11 GI Bill, individuals with qualifying periods of active duty of 36 months or more are eligible for payment of tuition and fees up to the highest in-State public school tuition for an undergraduate degree, monthly housing allowances, and books and supplies stipends. Individuals with less than 36 months of service are eligible, in general, for the same benefits. However, their benefits are proportionately lower (ranging from 90 percent to 40 percent) based on their length of service. In addition, as a retention incentive, the Department of Defense (DOD) may permit a member of the Armed Forces to transfer all or a portion of his or her Post-9/11 GI Bill benefits to a spouse and/or children. S. 3447 would amend the Post-9/11 GI Bill by expanding eligibility for certain individuals and by modifying the amount of assistance and types of approved programs.

Section 2 of the bill would amend the eligibility criteria under chapter 33 by modifying the definitions of qualified active service performed by members of the Reserve and Guard. The changes would: (1) clarify that Active Guard Reserve (AGR) members serv-

ing under title 10, United States Code, “for the purposes of organizing, administering, recruiting, instructing, or training the reserve components of the Armed Forces,” are covered, and provide that all other active service under title 10 must be in support of a contingency operation (as defined in 10 U.S.C. § 101(a)); (2) extend coverage to include full-time National Guard service under title 32, United States Code, for the purposes of organizing, administering, recruiting, instructing, or training the reserve components of the Armed Forces; and (3) extend coverage to National Guard members serving under section 502(f) of title 32 when ordered to active service by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

This section also would clarify that an honorable discharge would be required to establish eligibility under the Post-9/11 GI Bill in the case of an individual who is released from active duty in the Armed Forces: (1) due to a medical condition that preexisted service and that is not service-connected; (2) for hardship; or (3) for a physical or mental condition that was not characterized as a disability and did not result from an individual’s own willful misconduct, but did interfere with the individual’s performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

Finally, section 2 would amend 38 U.S.C. § 3311(d)(2) to exclude attendance at the Coast Guard Academy as qualifying service under the Post-9/11 GI Bill and expand the definition of entry-level and skill training for the Army to include “One Station Unit Training.”

Because of their potential impact on military recruitment and retention, VA respectfully defers to DOD and the Coast Guard regarding the merits of the proposed changes to qualifying active-service requirements. However, we note that this section will generate PAYGO costs, which would require an appropriate and acceptable offset.

We note that the amendments regarding qualifying title 10 service and extending coverage to Guard members under title 32, United States Code, would be consistent with qualifying active service under the Montgomery GI Bill (MGIB) and the Reserve Educational Assistance Program (REAP). In addition, the proposed amendment clarifying that certain service must result in an honorable discharge, described above, is similar to the honorable discharge requirements applicable to other covered individuals. Last, the amendment excluding, as qualified active service, attendance at the Coast Guard Academy is also similar to existing provisions that exclude attendance at the other military service academies.

Section 3 would modify the amount of educational assistance payable in the following areas: With regard to tuition and fee payments (which would still be subject to the 40–100 percent payment tiers in 38 U.S.C. § 3313(c)), for those enrolled in a public institution of higher learning, VA would pay tuition-and-fee benefits based on the charges reported. This would include students enrolled in graduate programs and students charged out-of-State tuition rates. For those enrolled in a private or foreign institution of higher learning, VA would base payment on the lesser of the

charged tuition and fees or a maximum tuition-and-fee cap. The maximum cap would be computed based on figures obtained from the Department of Education's National Center for Education Statistics. The figure used would be the average of established charges at all institutions (public and private) in the U.S. for a baccalaureate degree for the most recent academic year.

With regard to housing stipends (which would still be subject to 40–100 percent payment tiers in 38 U.S.C. §3313(c)), for individuals enrolled in institutions of higher learning in resident programs, the monthly housing stipend would be prorated based on training time. For example, a student training at the three-quarter-time rate would receive three fourths of the monthly housing stipend rather than the full monthly housing stipend. Students enrolled at foreign institutions would be subjected to the same rule. However, if the housing allowance based on training time is greater than the national average basic housing allowance, VA would pay the lesser amount. For students enrolled in a distance learning program at more than the half-time rate, VA would pay 50 percent of the housing allowance otherwise payable.

Section 3 would also expand benefits to include payment for enrollment in programs offered by vocational schools, correspondence school-training establishments, on-the-job training and apprenticeships, and flight schools. For those individuals pursuing programs offered by vocational schools, VA would pay the lesser of the established charges or a maximum fee cap. That cap would be computed based on figures from the Department of Education's National Center for Education Statistics. The figure used would be the average of established charges at all institutions (public and private) in the U.S. for a baccalaureate degree for the most recent academic year. In addition, VA would pay a monthly housing allowance based on the military's basic allowance for housing (BAH) of an E-5 with dependents based on the Zip Code of the institution.

For those individuals pursuing a program of apprenticeship/on-the-job training, trainees would receive two monthly stipend payments. One would be based on the military's basic allowance for housing (BAH) for an E-5 with dependents. VA would pay the lesser of the BAH rate for the Zip Code of the employer or the national average of BAH rates. The other payment would be based on one twelfth of the average established charges for tuition and fees at all institutions (public and private) in the U.S. for a baccalaureate degree for the most recent academic year. The figure would be obtained from the National Center for Education Statistics. Both payments would decrease over the length of program. During the first six months of training, the trainee would receive 75 percent of the monthly stipends. During the second six months, the trainee would receive 55 percent of the monthly stipends. For the duration of the program, the trainee would receive 35 percent of the monthly stipends.

An individual pursuing a course of flight training would receive assistance in an amount equal to the lesser of the established charges for the program or 60 percent of the average established charges for tuition and fees at all institutions (public and private) in the U.S. for a baccalaureate degree for the most recent academic

year. The figure would be obtained from the National Center for Education Statistics.

An individual pursuing a program of education through correspondence courses would receive educational assistance in an amount equal to the lesser of the established charges for the program or 55 percent of the average established charges for tuition and fees at all institutions (public and private) in the U.S. for a baccalaureate degree for the most recent academic year. The figure would be obtained from the National Center for Education Statistics. VA would charge one month of entitlement for each month of assistance provided.

Finally, section 3 would provide for lump-sum payments for books and supplies to Servicemembers using VA education benefits while on active duty and to spouses using transferred benefits while the servicemember is on active duty. The total amount payable in an academic year would be \$1,000.

VA supports streamlining the tuition-and-fee benefits for students attending public institutions and establishing a maximum payment cap for students attending private institutions. The manner in which institutions assess charges varies widely from State to State and from school to school. VA also does not object to expansion of the program to permit payment for vocational, flight, correspondence, and apprenticeship or on-the-job training programs, subject to Congress identifying appropriate and acceptable offsetting PAYGO cost savings. However, we believe several technical corrections to the bill as drafted would be necessary to enable VA to administer this section properly. For example, it would be beneficial to streamline the two monthly stipends payable to an individual pursuing a program of on-the-job training or apprenticeship into a single monthly benefit. In addition, as drafted, the assistance proposed in section 3 for certain types of courses at other than institutions of higher learning would not be subject to the 40–100 percent tier levels that reflect the length of an individual's qualifying active-duty service. As a result, individuals pursuing programs of education under the new provisions apparently would receive higher housing and tuition benefits than students attending degree-granting institutions. We would be pleased to work with the Committee to address identified areas of concern.

Section 4 of S. 3447 would amend 38 U.S.C. § 3315 to permit individuals to take more than one licensure or certification test. Currently, individuals are eligible to receive a reimbursement of up to \$2,000 for a single licensure or certification test, with no charge being made to their Post-9/11 GI Bill entitlement. As part of the amendment to section 3315, an individual's entitlement would be charged based on each reimbursement made. VA would base the entitlement charge on a dollar amount provided by the National Center for Education Statistics (NCES) that represents the average established charges for tuition and fees at all institutions (public and private) in the U.S. for a baccalaureate degree for the most recent academic year. VA would charge one month of entitlement for each reimbursement equal to one twelfth of the annual NCES figure. VA does not oppose this proposed amendment, subject to the identification of appropriate and acceptable PAYGO offsets for any resulting additional costs.

Section 5 of the bill would amend 38 U.S.C. §3316 to provide that individuals eligible to receive supplemental education assistance (i.e., “reenlistment kickers”) under the Montgomery GI Bill—Active Duty (MGIB-AD) or the Montgomery GI Bill—Selected Reserve (MGIB-SR), would remain eligible for such assistance if the individual elected to receive the Post-9/11 GI Bill instead of the MGIB. The supplemental assistance would be paid as an increase to the monthly housing allowance, and based on the individual’s benefit level. Thus, only individuals eligible for a monthly housing stipend would be eligible to receive such supplemental assistance. The Department of Defense would reimburse VA for any supplemental assistance paid. VA defers to DOD as to the merits of this section.

Section 6 would authorize DOD to permit an individual to transfer his or her entitlement to benefits under the Post-9/11 GI Bill after the individual is no longer a member of the Armed Forces. Under current law, DOD must approve such a transfer while the individual is still a member of the Armed Forces. This section would also extend the transfer-of-entitlement option to members of the Public Health Service and the National Oceanic and Atmospheric Administration. In addition, this amendment would require the Secretaries of Defense, Health and Human Services, and Commerce to reimburse VA for the amounts VA pays family members. Currently, VA is not reimbursed for payments made to family members utilizing transferred benefits. The Administration is still reviewing this section, and we will provide written views once VA completes a cost estimate for the entire bill.

Section 7 of the bill would amend 38 U.S.C. §3322(a) to prevent individuals eligible for National Call to Service (NCS) incentives and the Post-9/11 GI Bill from receiving payments concurrently. VA supports this provision. However, we have identified other areas of potential duplication of benefits, and would be pleased to work with the Committee to include language that would ensure against duplication of benefits.

Section 8 of the bill would amend 38 U.S.C. §3676(e) to provide that VA may not approve non-accredited courses of education pursued in whole or in part by distance learning. This change would be similar to the existing rule for courses of education pursued by independent study. This change is not necessary because current definitions of resident training and independent study in VA regulations encompass distance learning. As a result, VA currently does not approve non-accredited distance learning programs of education. Nonetheless, we would not object to this amendment.

Section 9 of S. 3447 would amend 38 U.S.C. §3684(c), which provides that VA may pay an annual reporting fee to any educational institution that furnishes education or training and submits reports or certifications to VA. Under current law, the reporting fee is computed each calendar year by multiplying \$7 by the number of individuals enrolled in VA education and Vocational Rehabilitation and Employment programs. In addition, the law also provides for the payment of \$11 for each individual whose educational assistance checks are sent to a school for temporary custody and delivery at the time of registration. These amounts have not been increased since October 1, 1977. Section 9 proposes to increase the

respective amounts for such payments from \$7 to \$12, and from \$11 to \$15.

VA does not object to the proposed increase in the reporting fees, subject to Congress identifying appropriate offsets. In addition, however, VA believes that section 3684(c) should be further amended to include language requiring educational institutions to use the reporting fees to support Veteran programs and VA certifying-official activities.

Section 10 of the bill would amend 38 U.S.C. § 3108(b) to authorize Veterans pursuing a vocational rehabilitation program under Chapter 31 to elect payment of an amount equal to the national average of the monthly amount of basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 in lieu of the subsistence allowance payable under Chapter 31. We will provide written views for the record regarding this section.

Section 11 of the bill would amend 38 U.S.C. § 3680(a) to remove VA's authority to make interval payments (payment between breaks in terms, quarters, or semesters). This amendment would apply to the Post-9/11 GI Bill, the Montgomery GI Bill, the Reserve Educational Assistance Program, the Survivors' and Dependents' Educational Assistance Program, and the Vocational Rehabilitation and Employment program. However, an exception would exist to make interval payments between consecutive terms when a student changes schools and the break does not exceed 30 days. VA does not support this amendment because the interval payments are paid to the individuals to help with their living expenses during breaks between enrollment periods. Currently, a student is not eligible for interval pay if the break is more than 8 weeks. Discontinuing interval payment would mean a student would have to seek employment during the break between fall and spring semester; thus, we do not support this section as drafted. VA would be pleased to work with the Committee to identify changes to interval payment that would not result in a hardship to students.

We note that the amendments proposed in S. 3447 would be effective on the date of enactment of the Act. VA is working aggressively on a new payment system to support the existing Post-9/11 GI Bill provisions. Since we have concerns about changes to the eligibility criteria impacting our current efforts as well as our ability to implement the provisions effective the date of enactment, we strongly recommend the amendments made by this bill take effect no earlier than August 1, 2011.

\* \* \* \* \*

Mr. Chairman, we will provide the Committee with our estimate of the cost of enactment of S. 3447 for the record.

This concludes my statement, Mr. Chairman. I would be happy to respond to any questions you or the other Members of the Committee may have.

\* \* \* \* \*

CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, changes in existing law made by the Committee bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**Title 10. Armed Forces**

**Subtitle A. General Military Law**

\* \* \* \* \*

**Part III. Training and Education**

**Chapter 101. Training Generally**

**SEC. 2006. DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND**

(a) \* \* \*

(b) \* \* \*

(1) The term "armed forces education liabilities" means liabilities of the armed forces for benefits under chapter 30 or 33 of title 38 and for Department of Defense benefits under paragraphs (3) and (4) of section 510(e) and chapters 1606 and 1607 of this title, including funds provided by the Secretary of Homeland Security for education liabilities for the Coast Guard when it is not operating as a service in the Department of the Navy.

(2) \* \* \*

\* \* \* \* \*

(D) \* \* \*

*(E) The present value of any future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized by section 3316 of title 38.*

\* \* \* \* \*



## Title 38. Veterans' Benefits

\* \* \* \* \*

### Part III. Readjustment and Related Benefits

#### Chapter 30. All-Volunteer Force Educational Assistance Program

\* \* \* \* \*

#### Subchapter IV. Time Limitation for Use of Eligibility and Entitlement; General and Administrative Provisions

##### SEC. 3031. TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT

\* \* \* \* \*

[(d) In the case of an individual eligible for educational assistance under this chapter—

[(1) who was prevented from pursuing such individual's chosen program of education before the expiration of the 10-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of the individual's own willful misconduct, and

[(2) who applies for an extension of such 10-year period within one year after (A) the last day of such period, or (B) the last day on which such individual was so prevented from pursuing such program, whichever is later,

such 10-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such 10-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Secretary shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.]

*(d)(1) In the case of an individual eligible for educational assistance under this chapter who is prevented from pursuing the individual's chosen program of education before the expiration of the 10-year period for the use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which is not the result of the individual's own willful misconduct, such 10-year period—*

*(A) shall not run during the period the individual is so prevented from pursuing such program; and*

*(B) shall again begin running on the first day after the individual's recovery from such disability on which it is reasonably feasible, as determined under regulations prescribed by the Secretary, for the individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.*

*(2)(A) Subject to subparagraph (B), in the case of an individual eligible for educational assistance under this chapter who is pre-*

vented from pursuing the individual's chosen program of education before the expiration of the 10-year period for the use of entitlement under this chapter otherwise applicable under this section by reason of acting as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a) of this title, such 10-year period—

(i) shall not run during the period the individual is so prevented from pursuing such program; and

(ii) shall again begin running on the first day after the date of the recovery of the veteran or member from the injury, or the date on which the individual ceases to be the primary provider of personal care services for the veteran or member, whichever is earlier, on which it is reasonably feasible, as so determined, for the individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(B) Subparagraph (A) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revocation of the individual's designation as such a primary provider under section 1720G(a)(7)(D) of this title.

\* \* \* \* \*

**SEC. 3034. PROGRAM ADMINISTRATION**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

\* \* \* \* \*

[(3) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.]

(3) the flight school courses are approved by the Federal Aviation Administration and are offered by a certified pilot school that possesses a valid Federal Aviation Administration pilot school certificate.

\* \* \* \* \*

**Chapter 31. Training and Rehabilitation for Veterans with Service-Connected Disabilities**

\* \* \* \* \*

**SEC. 3108. ALLOWANCES**

\* \* \* \* \*

(b)(1) \* \* \*

\* \* \* \* \*

(4) A veteran entitled to a subsistence allowance under this chapter and educational assistance under chapter 33 of this title may elect to receive payment from the Secretary in lieu of an amount otherwise determined by the Secretary under this subsection in an amount equal to the applicable monthly amount of basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area

*that encompasses all or the majority portion of the ZIP code area in which is located the institution providing rehabilitation program concerned.*

\* \* \* \* \*

**Chapter 33. Post-9/11 Educational Assistance**

SUBCHAPTER I. DEFINITIONS

Sec.

3301. Definitions.

SUBCHAPTER II. EDUCATIONAL ASSISTANCE

3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.

\* \* \* \* \*

3315. Licensure and certification tests.

3315A. *National tests.*

\* \* \* \* \*

**Subchapter I. Definitions**

**SEC. 3301. DEFINITIONS**

In this chapter:

(1) \* \* \*

(A) \* \* \*

\* \* \* \* \*

*(C) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, in addition to service described in subparagraph (B), full-time service—*

*(i) in the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard; or*

*(ii) in the National Guard under section 502(f) of title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.*

(2) The term “entry level and skill training” means the following:

(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training or *One Station Unit Training.*

\* \* \* \* \*

(E) In the case of members of the Coast Guard, Basic Training and Skill Training (or so-called “A” School).

\* \* \* \* \*

**Subchapter II. Educational Assistance**

**SEC. 3311. EDUCATIONAL ASSISTANCE FOR SERVICE IN THE ARMED FORCES COMMENCING ON OR AFTER SEPTEMBER 11, 2001: ENTITLEMENT**

(c) \* \* \*

(4) **【A discharge or release from active duty in the Armed Forces】** *A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service for—*

(d) \* \* \*

(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10 or section 182 of title 14.

**SEC. 3313. EDUCATIONAL ASSISTANCE: AMOUNT; PAYMENT**

(a) \* \* \*

(b) **APPROVED PROGRAMS OF EDUCATION.**—A program of education is an approved program of education for purposes of this chapter if the program of education **【is offered by an institution of higher learning (as that term is defined in section 3452(f)) and】** is approved for purposes of chapter 30 (including approval by the State approving agency concerned).

(c) **【AMOUNT OF EDUCATIONAL ASSISTANCE.】** *PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED AT INSTITUTIONS OF HIGHER LEARNING ON MORE THAN HALF-TIME BASIS.*—The amounts payable under this subsection for pursuit of an approved program of education *leading to a degree at an institution of higher learning (as that term is defined in section 3452(f))* are amounts as follows:

(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2), amounts as follows:

**【(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.】**

*(A) An amount equal to the following:*

*(i) In the case of a program of education pursued at a public institution of higher learning, the actual net cost for in-State tuition and fees assessed by the insti-*

tution for the program of education after the application of—

(I) any waiver of, or reduction in, tuition and fees; and

(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees.

(ii) In the case of a program of education pursued at a non-public or foreign institution of higher learning, the lesser of—

(I) the actual net cost for tuition and fees assessed by the institution for the program of education after the application of—

(aa) any waiver of, or reduction in, tuition and fees; and

(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

(II) the amount equal to—

(aa) for the academic year beginning on August 1, 2011, \$20,000; or

(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).

(B) A monthly stipend in an amount as follows:

【(i) For each month the individual pursues the program of education (other than, in the case of assistance under this section only, a program of education offered through distance learning), a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.】

(i) Except as provided in clauses (ii) and (iii), for each month an individual pursues a program of education on more than a half-time basis, a monthly housing stipend equal to the product of—

(I) the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher learning at which the individual is enrolled, multiplied by

(II) the lesser of—

(aa) 1.0; or

(bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

(ii) In the case of an individual pursuing a program of education at a foreign institution of higher learning on more than a half-time basis, for each month the individual pursues the program of education, a monthly housing stipend equal to the product of—

(I) the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5, multiplied by

(II) the lesser of—

(aa) 1.0; or

(bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

(iii) In the case of an individual pursuing a program of education solely through distance learning on more than a half-time basis, a monthly housing stipend equal to 50 percent of the amount payable under clause (ii) if the individual were otherwise entitled to a monthly housing stipend under that clause for pursuit of the program of education.

(iv) [(ii)] \* \* \*

\* \* \* \* \*

(e) **PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY** PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED ON ACTIVE DUTY ON MORE THAN HALF-TIME BASIS.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education leading to a degree while on active duty.

(2) AMOUNT OF ASSISTANCE.—[The amount] The amounts of educational assistance payable under this chapter to an individual pursuing a program of education leading to a degree while on active duty [is the lesser of—] are as follows:

[(i) [(A)] the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or]

(A) Subject to subparagraph (C), an amount equal to the lesser of—

(i) the actual net cost for in-State tuition and fees assessed by the institution of higher learning for the program of education after the application of—

(I) any waiver of, or reduction in, tuition and fees; and

(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees;

(ii) the amount equal to—

(I) for the academic year beginning on August 1, 2011, \$20,000; or

(II) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this clause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h); or

(iii) [(B)] the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1)[.]

(B) Subject to subparagraph (C), for the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

(i) \$1,000, multiplied by

(ii) the fraction of a complete academic year under the program of education that such quarter, semester, or term constitutes.

(C) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the amounts payable to the individual pursuant to subparagraphs (A)(i), (A)(ii), and (B) shall be the amounts otherwise determined pursuant to such subparagraphs multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

\* \* \* \* \*

(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less *whether a program of education pursued on active duty, a program of education leading to a degree,*

or a program of education other than a program of education leading to a degree.

(2) AMOUNT OF ASSISTANCE.—The educational assistance payable under this chapter to an individual pursuing a program of education covered by this subsection on half-time basis or less is the amounts as follows:

(A) The amount equal to the lesser of—

[(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or]

(i) the actual net cost for in-State tuition and fees assessed by the institution of higher learning for the program of education after the application of—

(I) any waiver of, or reduction in, tuition and fees; and

(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

\* \* \* \* \*

(g) PROGRAMS OF EDUCATION OTHER THAN PROGRAMS OF EDUCATION LEADING TO A DEGREE.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education other than a program of education leading to a degree at an institution other than an institution of higher learning (as that term is defined in section 3452(f)).

(2) PURSUIT ON HALF-TIME BASIS OR LESS.—The payment of educational assistance under this chapter for pursuit of a program of education otherwise described in paragraph (1) on a half-time basis or less is governed by subsection (f).

(3) AMOUNT OF ASSISTANCE.—The amounts of educational assistance payable under this chapter to an individual entitled to educational assistance under this chapter who is pursuing an approved program of education covered by this subsection are as follows:

(A) In the case of an individual enrolled in a program of education (other than a program described in subparagraphs (B) through (D)) in pursuit of a certificate or other non-college degree, the following:

(i) Subject to clause (iv), an amount equal to the lesser of—

(I) the actual net cost for in-State tuition and fees assessed by the institution concerned for the program of education after the application of—

(aa) any waiver of, or reduction in, tuition and fees; and

(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Edu-



*cation Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or*

*(II) the amount equal to—*

*(aa) for the academic year beginning on August 1, 2011, \$20,000; or*

*(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).*

*(ii) Except in the case of an individual pursuing a program of education on a half-time or less basis and subject to clause (iv), a monthly housing stipend equal to the product—*

*(I) of—*

*(aa) in the case of an individual pursuing resident training, the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution at which the individual is enrolled; or*

*(bb) in the case of an individual pursuing a program of education through distance learning, a monthly amount equal to 50 percent of the amount payable under item (aa), multiplied by*

*(II) the lesser of—*

*(aa) 1.0; or*

*(bb) the number of course hours borne by the individual in pursuit of the program of education involved, divided by the minimum number of course hours required for full-time pursuit of such program of education, rounded to the nearest multiple of 10.*

*(iii) Subject to clause (iv), a monthly stipend in an amount equal to \$83 for each month (or pro rata amount for a partial month) of training pursued for books supplies, equipment, and other educational costs.*

*(iv) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the amounts payable pursuant to clauses (i), (ii), and (iii) shall be the amounts otherwise determined pursuant to such clauses multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).*

(B) *In the case of an individual pursuing a full-time program of apprenticeship or other on-job training, amounts as follows:*

(i) *Subject to clauses (iii) and (iv), for each month the individual pursues the program of education, a monthly housing stipend equal to—*

(I) *during the first six-month period of the program, the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the employer at which the individual pursues such program;*

(II) *during the second six-month period of the program, 80 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I);*

(III) *during the third six-month period of the program, 60 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I);*

(IV) *during the fourth six-month period of such program, 40 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I); and*

(V) *during any month after the first 24 months of such program, 20 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I).*

(ii) *Subject to clauses (iii) and (iv), a monthly stipend in an amount equal to \$83 for each month (or pro rata amount for each partial month) of training pursued for books supplies, equipment, and other educational costs.*

(iii) *In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of sections 3311(b), the amounts payable pursuant to clauses (i) and (ii) shall be the amounts otherwise determined pursuant to such clauses multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).*

(iv) *In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under clauses (i) and (iii) to the individual shall be limited to the same proportion of the applicable rate determined under this subparagraph as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.*

(C) *In the case of an individual enrolled in a program of education consisting of flight training (regardless of the institution providing such program of education), an amount equal to—*

(i) *the lesser of—*

(I) *the actual net cost for in-State tuition and fees assessed by the institution concerned for the program of education after the application of—*

(aa) *any waiver of, or reduction in, tuition and fees; and*

(bb) *any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees;*  
or

(II) *the amount equal to—*

(aa) *for the academic year beginning on August 1, 2011, \$12,000; or*

(bb) *for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h), multiplied by—*

(ii) *either—*

(I) *in the case of an individual entitled to educational assistance by reason of paragraphs (1), (2), or (9) of section 3311(b), 100 percent; or*

(II) *in the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the same percentage as would otherwise apply to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).*

(D) *In the case of an individual enrolled in a program of education that is pursued exclusively by correspondence (regardless of the institution providing such program of education), an amount equal to—*

(i) *the lesser of—*

(I) *the actual net cost for tuition and fees assessed by the institution concerned for the program of education after the application of—*

(aa) *any waiver of, or reduction in, tuition and fees; and*

(bb) *any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to*

*the institution and specifically designated for the sole purpose of defraying tuition and fees.*

*(II) the amount equal to—*

*(aa) for the academic year beginning on August 1, 2011, \$10,000; or*

*(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h), multiplied by—*

*(ii) either—*

*(I) in the case of an individual entitled to educational assistance by reason of paragraphs (1), (2), or (9) of section 3311(b), 100 percent; or*

*(II) in the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the same percentage as would otherwise apply to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).*

**(4) FREQUENCY OF PAYMENT.—**

**(A) QUARTER, SEMESTER, OR TERM PAYMENTS.—***Payment of the amounts payable under paragraph (3)(A)(i) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.*

**(B) MONTHLY PAYMENTS.—***Payment of the amounts payable under paragraphs (3)(A)(ii) and (3)(B)(i) for pursuit of a program of education shall be made on a monthly basis.*

**(C) LUMP SUM PAYMENTS.—**

*(i) Payment for the amount payable under paragraphs (3)(A)(iii) and (3)(B)(ii) shall be paid to the individual for the first month of each quarter, semester, or term, as applicable, of the program education pursued by the individual.*

*(ii) Payment of the amount payable under paragraph (3)(C) for pursuit of a program of education shall be made upon receipt of certification for training completed by the individual and serviced by the training facility.*

**(D) QUARTERLY PAYMENTS.—***Payment of the amounts payable under paragraph (3)(D) for pursuit of a program of education shall be made quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.*

**(5) CHARGE AGAINST ENTITLEMENT FOR CERTIFICATE AND OTHER NON-COLLEGE DEGREE PROGRAMS.—**

**(A) IN GENERAL.—***In the case of amounts paid under paragraph (3)(A)(i) for pursuit of a program of education, the charge against entitlement to educational assistance under this chapter of the individual for whom such payment is made shall be one month for each of—*

(i) the amount so paid, divided by  
 (ii) subject to subparagraph (B), the amount equal to one-twelfth of the amount applicable in the academic year in which the payment is made under paragraph (3)(A)(i)(II).

(B) *PRO RATA ADJUSTMENT BASED ON CERTAIN ELIGIBILITY.*—If the amount otherwise payable with respect to an individual under paragraph (3)(A)(i) is subject to a percentage adjustment under paragraph (3)(A)(iv), the amount applicable with respect to the individual under subparagraph (A)(ii) shall be the amount otherwise determined pursuant to such subparagraph subject to a percentage adjustment equal to the percentage adjustment applicable with respect to the individual under paragraph (3)(A)(iv).

**[(h) ESTABLISHED CHARGES DEFINED.—**

**[(1) IN GENERAL.—**In this section, the term “established charges”, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

**[(2) BASIS OF DETERMINATION.—**Established charges shall be determined for purposes of this subsection on the following basis:

**[(A)** In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

**[(B)** In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.]

(h) **[(g)]** **PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.**—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2), and (f)(2)(A), and under subparagraphs (A)(i), (C), and (D) of subsection (g)(3), shall be paid directly to the educational institution concerned.

(i) *DETERMINATION OF HOUSING STIPEND PAYMENTS FOR ACADEMIC YEARS.*—Any monthly housing stipend payable under this section during the academic year beginning on August 1 of a calendar year shall be determined utilizing rates for basic allowances for housing payable under section 403 of title 37 in effect as of January 1 of such calendar year.

\* \* \* \* \*

**SEC. 3315. LICENSURE AND CERTIFICATION TESTS**

(a) **IN GENERAL.**—An individual entitled to educational assistance under this chapter shall also be entitled to payment for **[one licensing or certification test]** *licensing or certification tests* described in section 3452(b).

(b) **LIMITATION ON AMOUNT.**—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

- (1) \$2,000; [or]
- (2) the fee charged for the test[.] ; or
- (3) the amount of entitlement available to the individual under this chapter at the time of payment for the test under this section.

[(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.]

(c) CHARGE AGAINST ENTITLEMENT.—The charge against an individual's entitlement under this chapter for payment for a licensing or certification test shall be determined at the rate of one month (rounded to the nearest whole month) for each amount paid that equals—

- (1) for the academic year beginning on August 1, 2011, \$1,667; or
- (2) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subsection, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).

**SEC. 3315A. NATIONAL TESTS**

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to educational assistance for the following:

- (1) A national test for admission to an institution of higher learning as described in the last sentence of section 3452(b).
- (2) A national test providing an opportunity for course credit at an institution of higher learning as so described.

(b) AMOUNT.—The amount of educational assistance payable under this chapter for a test described in subsection (a) is the lesser of—

- (1) the fee charged for the test; or
- (2) the amount of entitlement available to the individual under this chapter at the time of payment for the test under this section.

(c) CHARGE AGAINST ENTITLEMENT.—The number of months of entitlement charged an individual under this chapter for a test described in subsection (a) shall be determined at the rate of one month (rounded to the nearest whole month) for each amount paid that equals—

- (1) for the academic year beginning on August 1, 2011, \$1,667; or
- (2) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subsection, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).

**SEC. 3316. SUPPLEMENTAL EDUCATIONAL ASSISTANCE: MEMBERS WITH CRITICAL SKILLS OR SPECIALTY; MEMBERS SERVING ADDITIONAL SERVICE**

(a) \* \* \*

\* \* \* \* \*

(c) *CONTINUATION OF INCREASED EDUCATIONAL ASSISTANCE.*—

(1) *IN GENERAL.*—An individual who made an election to receive educational assistance under this chapter pursuant to section 5003(c)(1)(A) of the Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. 3301 note) and who, at the time of the election, was entitled to increased educational assistance under section 3015(d) or section 16131(i) of title 10 shall remain entitled to increased educational assistance in the utilization of the individual's entitlement to educational assistance under this chapter.

(2) *RATE.*—The monthly rate of increased educational assistance payable to an individual under paragraph (1) shall be—

(A) the rate of educational assistance otherwise payable to the individual under section 3015(d) or section 16131(i) of title 10, as the case may be, had the individual not made the election described in paragraph (1), multiplied by

(B) the lesser of—

(i) 1.0; or

(ii) the number of course hours borne by the individual in pursuit of the program of education involved divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

(3) *FREQUENCY OF PAYMENT.*—Payment of the amounts payable under paragraph (1) during pursuit of a program of education shall be made on a monthly basis.

(d) *FUNDING.*—Payments for increased educational assistance under this section shall be made from the Department of Defense Education Benefits Fund under section 2006 of title 10 or from appropriations available to the Department of Homeland Security for that purpose, as applicable.

(e) **[(c)] REGULATIONS.**—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

\* \* \* \* \*

**SEC. 3319. AUTHORITY TO TRANSFER UNUSED EDUCATION BENEFITS TO FAMILY MEMBERS**

(a) *IN GENERAL.*—**[(Subject to the provisions of this section, the Secretary of Defense may authorize the Secretary concerned, to promote recruitment and retention of members of the Armed Forces, to permit)]** (1) *Subject to the provisions of this section, the Secretary concerned may permit* an individual described in subsection (b) who is entitled to educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such individual's entitlement to such assistance, subject to the limitation under subsection (d).

(2) *The purpose of the authority in paragraph (1) is to promote recruitment and retention in the uniformed services. The Secretary concerned may exercise the authority for that purpose when authorized by the Secretary of Defense in the national security interests of the United States.*

(b) *ELIGIBLE INDIVIDUALS.*—An individual referred to in subsection (a) is any member of the **[(Armed Forces)]** *uniformed serv-*

ices who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, has completed at least—

- (1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the **[Armed Forces]** *uniformed services*; or
- (2) the years of service as determined in regulations pursuant **[to section (k)]** *to subsection (j)*.

\* \* \* \* \*

(h) \* \* \*

(1) \* \* \*

\* \* \* \* \*

**[(5) LIMITATION ON AGE OF USE BY CHILD TRANSFEREES.—A child to whom entitlement is transferred under this section may use the benefit without regard to the 15-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years.]**

**(5) LIMITATION ON AGE OF USE BY CHILD TRANSFEREES.—**

**(A) IN GENERAL.—***A child to whom entitlement is transferred under this section may use the benefits transferred without regard to the 15-year delimiting date specified in section 3321, but may not, except as provided in subparagraph (B), use any benefits so transferred after attaining the age of 26 years.*

**(B) PRIMARY CAREGIVERS OF SERIOUSLY INJURED MEMBERS OF THE ARMED FORCES AND VETERANS.—**

*(i) IN GENERAL.—Subject to clause (ii), in the case of a child who, before attaining the age of 26 years, is prevented from pursuing a chosen program of education by reason of acting as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a), the child may use the benefits beginning on the date specified in clause (iii) for a period whose length is specified in clause (iv).*

*(ii) INAPPLICABILITY FOR REVOCATION.—Clause (i) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revocation of the individual's designation as such a primary provider under section 1720G(a)(7)(D).*

*(iii) DATE FOR COMMENCEMENT OF USE.—The date specified in this clause for the beginning of the use of benefits by a child under clause (i) is the later of—*

*(I) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i);*

*(II) the date on which it is reasonably feasible, as determined under regulations prescribed by the Secretary, for the child to initiate or resume the use of benefits; or*



(III) the date on which the child attains the age of 26 years.

(iv) *LENGTH OF USE.*—The length of the period specified in this clause for the use of benefits by a child under clause (i) is the length equal to the length of the period that—

(I) begins on the date on which the child begins acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i); and

(II) ends on the later of—

(aa) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member as described in clause (i); or

(bb) the date on which it is reasonably feasible, as so determined, for the child to initiate or resume the use of benefits.

\* \* \* \* \*

[(k) **SECRETARY CONCERNED DEFINED.**—Notwithstanding section 101(25), in this section, the term “Secretary concerned” means—

[(1) the Secretary of the Army with respect to matters concerning the Army;

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

[(3) the Secretary of the Air Force with respect to matters concerning the Air Force; and

[(4) the Secretary of Defense with respect to matters concerning the Coast Guard, or the Secretary of Homeland Security when it is not operating as a service in the Navy.]

**Subchapter III. Administrative Provisions**

\* \* \* \* \*

**SEC. 3322. BAR TO DUPLICATION OF EDUCATIONAL ASSISTANCE BENEFITS**

(a) **IN GENERAL.**—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 or *section 510* of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

\* \* \* \* \*

(e) **BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.**—An individual entitled to educational assistance under both sections 3311(b)(9) and 3319 may not receive assistance under both provisions concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which provision to receive educational assistance.

*(f) BAR TO RECEIPT OF COMPENSATION AND PENSION AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.—The commencement of a program of education under section 3311(b)(9) shall be a bar to the following:*

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

*(2) Increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person, whether eligibility is based upon the death of the parent.*

*(g) BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS.—A spouse or child who is entitled to educational assistance under this chapter based on a transfer of entitlement from more than one individual under section 3319 may not receive assistance based on transfers from more than one such individual concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which source to utilize such assistance at any one time.*

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

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

*(2) ELIGIBILITY FOR EDUCATIONAL ASSISTANCE BASED ON PARENT'S SERVICE.—A child of a member of the Armed Forces who, on or after September 11, 2001, dies in the line of duty while serving on active duty, who is eligible for educational assistance under either section 3311(b)(9) or chapter 35 of this title based on the parent's death may not receive such assistance under both this chapter and chapter 35 of this title, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter to receive such assistance.*

#### **SEC. 3323. ADMINISTRATION**

*(a) IN GENERAL.—*

*(1) IN GENERAL.—Except as otherwise provided in this chapter, the provisions specified in [section 3034(a)(1)] sections 3034(a)(1) and 3680(c) shall apply to the provision of educational assistance under this chapter.*

\* \* \* \* \*

### **Chapter 35. Survivors' and Dependents' Educational Assistance**

\* \* \* \* \*

**Subchapter II. Eligibility and Entitlement**

**SEC. 3510. ELIGIBILITY AND ENTITLEMENT GENERALLY.**

\* \* \* \* \*

**SEC. 3512. PERIODS OF ELIGIBILITY.**

(a) \* \* \*

\* \* \* \* \*

[(c) Notwithstanding the provisions of subsection (a) of this section, an eligible person may be afforded educational assistance beyond the age limitation applicable to such person under such subsection if (1) such person suspends pursuit of such person's program of education after having enrolled in such program within the time period applicable to such person under such subsection, (2) such person is unable to complete such program after the period of suspension and before attaining the age limitation applicable to such person under such subsection, and (3) the Secretary finds that the suspension was due to conditions beyond the control of such person; but in no event shall educational assistance be afforded such person by reason of this subsection beyond the age limitation applicable to such person under subsection (a) of this section plus a period of time equal to the period such person was required to suspend the pursuit of such person's program, or beyond such person's thirty-first birthday, whichever is earlier.]

*(c)(1) Notwithstanding subsection (a) and subject to paragraph (2), an eligible person may be afforded educational assistance beyond the age limitation applicable to the person under such subsection if—*

*(A) the person suspends pursuit of such person's program of education after having enrolled in such program within the time period applicable to such person under such subsection;*

*(B) the person is unable to complete such program after the period of suspension and before attaining the age limitation applicable to the person under such subsection; and*

*(C) the Secretary finds that the suspension was due to either of the following:*

*(i) The actions of the person as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a) of this title.*

*(ii) Conditions otherwise beyond the control of the person.*

*(2) Paragraph (1) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revocation of the individual's designation as such a primary provider under section 1720G(a)(7)(D) of this title.*

*(3) Educational assistance may not be afforded a person under paragraph (1) after the earlier of—*

*(A) the age limitation applicable to the person under subsection (a), plus a period of time equal to the period the person was required to suspend pursuit of the person's program of education as described in paragraph (1); or*

*(B) the date of the person's thirty-first birthday.*

\* \* \* \* \*

**Chapter 36. Administration of Educational Benefits**

**Subchapter I. State Approving Agencies**

**SEC. 3670. SCOPE OF APPROVAL**

\* \* \* \* \*

**SEC. 3671. DESIGNATION**

(a) \* \* \*

(b)(1) \* \* \*

(2) **[In the case]** *Except as otherwise provided in this chapter, in the case of courses subject to approval by the Secretary under section 3672 of this title, the provisions of this chapter which refer to a State approving agency shall be deemed to refer to the Secretary.*

**SEC. 3672. APPROVAL OF COURSES**

(a) \* \* \*

(b)(1) The Secretary shall be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education. The Secretary may approve any course in any other educational institution in accordance with the provisions of this chapter and chapters 34 and 35 of this title.

(2)(A) *Subject to sections 3675(b)(1) and (b)(2), 3680A, 3684, and 3696 of this title, the following programs are deemed to be approved for purposes of this chapter:*

(i) *An accredited standard college degree program offered at a public or not-for-profit proprietary educational institution that is accredited by an agency or association recognized for that purpose by the Secretary of Education.*

(ii) *A flight training course approved by the Federal Aviation Administration that is offered by a certified pilot school that possesses a valid Federal Aviation Administration pilot school certificate.*

(iii) *An apprenticeship program registered with the Office of Apprenticeship (OA) of the Employment Training Administration of the Department of Labor or a State apprenticeship agency recognized by the Office of Apprenticeship pursuant to the Act of August 16, 1937 (popularly known as the "National Apprenticeship Act" 29 U.S.C. 50 et seq.).*

(iv) *A program leading to a secondary school diploma offered by a secondary school approved in the State in which it is operating.*

(B) *A licensure test offered by a Federal, State, or local government is deemed to be approved for purposes of this chapter.*

\* \* \* \* \*

**SEC. 3673. APPROVAL ACTIVITIES: COOPERATION AND COORDINATION OF ACTIVITIES**

(a) \* \* \*

\* \* \* \* \*

(d) **USE OF STATE APPROVING AGENCIES FOR COMPLIANCE AND OVERSIGHT ACTIVITIES.**—*The Secretary may utilize the services of a State approving agency for such compliance and oversight purposes*

as the Secretary considers appropriate without regard to whether the Secretary or the agency approved the courses offered in the State concerned.

\* \* \* \* \*

**SEC. 3675. APPROVAL OF ACCREDITED COURSES**

(a)(1) **[A State approving agency may approve the courses offered by an educational institution]** *The Secretary or a State approving agency may approve accredited programs (including non-degree accredited programs) offered by proprietary for-profit educational institutions when—*

\* \* \* \* \*

(b) As a condition of approval under this section, *the Secretary or the State approving agency* must find the following:

(1) The educational institution keeps adequate records, as prescribed by *the Secretary or the State approving agency*, to show the progress and grades of the eligible person or veteran and to show that satisfactory standards relating to progress and conduct are enforced.

\* \* \* \* \*

**SEC. 3679. DISAPPROVAL OF COURSES**

(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by *the Secretary or the appropriate State approving agency*. An educational institution which has its courses disapproved by *the Secretary or a State approving agency* will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

\* \* \* \* \*

**Subchapter II. Miscellaneous Provisions**

**SEC. 3680. PAYMENT OF EDUCATIONAL ASSISTANCE OR SUBSISTENCE ALLOWANCES**

- (a) \* \* \*
- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*
- (A) \* \* \*
- (B) \* \* \*

Notwithstanding the foregoing, the Secretary may, subject to such regulations as the Secretary shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) of this subsection during periods when schools are temporarily closed under an established policy based on an Executive order of the President or due to an emergency situation. However, the total number of weeks for which allowances may continue to be so payable in any 12-month period may not exceed 4 weeks. **[of this subsection—**

**(A)** during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation;

[(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days; or

[(C) during periods between school terms where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual term basis if (i) the period between those terms does not exceed eight weeks, and (ii) both the terms preceding and following the period are not shorter in length than the period.]

\* \* \* \* \*

**SEC. 3681. LIMITATIONS ON EDUCATIONAL ASSISTANCE**

(a) \* \* \*

(b) \* \* \*

(1) \* \* \*

(2) Chapters 106 and 107 *and section 510* of title 10.

\* \* \* \* \*

**SEC. 3684. REPORTS BY VETERANS, ELIGIBLE PERSONS, AND INSTITUTIONS; REPORTING FEE**

(a) \* \* \*

\* \* \* \* \*

(c) The Secretary may pay to any educational institution, or to the sponsor of a program of apprenticeship, furnishing education or training under either this chapter or chapter 31, 34, or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Secretary by law or regulation. Such reporting fee shall be computed for each calendar year by [multiplying \$7] *multiplying \$12* by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 31, 34, or 35 of this title, [or \$11] *or \$15* in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 3680(d)(4) of this title, during the calendar year. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable. No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Secretary against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 3685 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction. *Any reporting fee paid an educational institution or joint apprenticeship training committee after the date of the enactment of the Post-9/11 Veterans Educational Assistance Improvements Act of 2011 shall be utilized by such institution or committee solely for the making of certifications required under this chapter or chapter 31,*

34, or 35 of this title or for otherwise supporting programs for veterans. The reporting fee payable under this subsection shall be paid from amounts appropriated for readjustment benefits.

\* \* \* \* \*

**SEC. 3689. APPROVAL REQUIREMENTS FOR LICENSING AND CERTIFICATION TESTING**

(a) IN GENERAL.—(1) No payment may be made for a licensing or certification test described in section 3452(b) or 3501(a)(5) of this title unless *the test is deemed approved by section 3672(b)(2)(B) of this title* or the Secretary determines that the requirements of this section have been met with respect to such test and the organization or entity offering the test. The requirements of approval for tests and organizations or entities offering tests shall be in accordance with the provisions of this chapter and chapters 30, 32, 33, 34, and 35 of this title and with regulations prescribed by the Secretary to carry out this section.

\* \* \* \* \*

