

108TH CONGRESS  
1ST SESSION

# S. 730

To amend title 38, United States Code, to permit the transfer to spouses and children of a portion of the entitlement of certain members of the Armed Forces to educational assistance under the Montgomery GI Bill, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 27, 2003

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to permit the transfer to spouses and children of a portion of the entitlement of certain members of the Armed Forces to educational assistance under the Montgomery GI Bill, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. TRANSFER BY CERTAIN MEMBERS OF THE**  
 2 **ARMED FORCES OF PORTION OF ENTITLE-**  
 3 **MENT TO EDUCATIONAL ASSISTANCE UNDER**  
 4 **THE MONTGOMERY GI BILL.**

5 (a) IN GENERAL.—Chapter 30 of title 38, United  
 6 States Code, is amended—

7 (1) by redesignating section 3020 as section  
 8 3020A; and

9 (2) by inserting after section 3019 the following  
 10 new section 3020:

11 **“§ 3020. Transfer of entitlement to basic educational**  
 12 **assistance: certain members of the Armed**  
 13 **Forces agreeing to additional service**

14 “(a) IN GENERAL.—Subject to the provisions of this  
 15 section, an individual described in subsection (b) who is  
 16 entitled to basic educational assistance under this sub-  
 17 chapter may transfer to one or more of the dependents  
 18 specified in subsection (c) a portion of such individual’s  
 19 entitlement to such assistance, subject to the limitation  
 20 under subsection (d).

21 “(b) ELIGIBLE INDIVIDUALS.—An individual re-  
 22 ferred to in subsection (a) is any member of the Armed  
 23 Forces who—

24 “(1) has completed at least six years of service  
 25 in the Armed Forces; and

1           “(2) enters into an agreement to serve at least  
2           four more years as a member of the Armed Forces.

3           “(c) ELIGIBLE DEPENDENTS.—An individual re-  
4           ferred to in subsection (a) may transfer entitlement to  
5           basic educational assistance under this section as follows:

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

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

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

11          “(d) LIMITATION ON MONTHS TRANSFERABLE.—  
12          The total number of months of entitlement to basic edu-  
13          cational assistance transferable by an individual under  
14          this section may not exceed the lesser of—

15               “(1) the number of months equal to one quarter  
16               of the aggregate number of months of basic edu-  
17               cational assistance to which the individual is entitled  
18               under this subchapter (as determined under section  
19               3013 of this title); or

20               “(2) the number of months of entitlement to  
21               basic educational assistance which remain unused by  
22               the individual at the time of transfer under this sec-  
23               tion.

1       “(e) DESIGNATION OF TRANSFEREE.—An individual  
2 transferring an entitlement to basic educational assistance  
3 under this section shall—

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

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

9               “(3) specify the period for which the transfer  
10 shall be effective for each dependent designated  
11 under paragraph (1).

12       “(f) TIME FOR TRANSFER; REVOCATION AND MODI-  
13 FICATION.—(1) Subject to the time limitation for use of  
14 entitlement under section 3031 of this title, an individual  
15 entitled to transfer basic educational assistance under this  
16 subchapter may transfer such entitlement at any time,  
17 without regard to whether the individual is a member of  
18 the Armed Forces when the transfer is executed.

19       “(2)(A) An individual transferring entitlement under  
20 this section may modify or revoke at any time the transfer  
21 of any unused portion of the entitlement so transferred.

22       “(B) The modification or revocation of the transfer  
23 of entitlement under this paragraph shall be made by the  
24 submittal of written notice of the action to both the Sec-  
25 retary concerned and the Secretary of Veterans Affairs.

1       “(g) ADDITIONAL ADMINISTRATIVE MATTERS.—(1)

2   The use of any entitlement to basic educational assistance  
3   transferred under this section shall be charged against the  
4   entitlement of the individual making the transfer at the  
5   rate of one month for each month of transferred entitle-  
6   ment that is used.

7       “(2) Except as provided under subsection (f)(2) and  
8   subject to paragraphs (5) and (6), a dependent to whom  
9   entitlement is transferred under this section is entitled to  
10   basic educational assistance under this subchapter in the  
11   same manner and at the same rate as the individual from  
12   whom the entitlement was transferred.

13       “(3) The monthly rate of educational assistance pay-  
14   able to a dependent to whom entitlement is transferred  
15   under this section shall be the monthly rate payable under  
16   sections 3105 and 3022 of this title at the time of the  
17   use of such entitlement by the dependent.

18       “(4) The death of an individual transferring an enti-  
19   tlement under this section shall not affect the use of the  
20   entitlement by the dependent to whom the entitlement is  
21   transferred.

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

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

7       “(7) The purposes for which a dependent to whom  
8 entitlement is transferred under this section may use such  
9 entitlement shall include the pursuit and completion of the  
10 requirements of a secondary school diploma (or equiva-  
11 lency certificate).

12       “(h) OVERPAYMENT.—(1) In the event of an overpay-  
13 ment of basic educational assistance with respect to a de-  
14 pendent to whom entitlement is transferred under this sec-  
15 tion, the dependent and the individual making the transfer  
16 shall be jointly and severally liable to the United States  
17 for the amount of the overpayment for purposes of section  
18 3685 of this title.

19       “(2) Except as provided in paragraph (3), if an indi-  
20 vidual transferring entitlement under this section fails to  
21 complete the service agreed to by the individual under sub-  
22 section (b)(2) in accordance with the terms of the agree-  
23 ment of the individual under that subsection, the amount  
24 of any transferred entitlement under this section that is  
25 used by a dependent of the individual as of the date of

1 such failure shall be treated as an overpayment of basic  
2 educational assistance under paragraph (1).

3 “(3) Paragraph (2) shall not apply in the case of an  
4 individual who fails to complete service agreed to by the  
5 individual—

6 “(A) by reason of the death of the individual;  
7 or

8 “(B) for a reason referred to in section  
9 3011(a)(1)(A)(ii)(I) of this title.

10 “(i) CONSTRUCTION WITH OTHER TRANSFER AU-  
11 THORITY.—The authority of an individual to transfer enti-  
12 tlement to basic educational assistance under this section  
13 is in addition to the authority, if any, of the individual  
14 to transfer entitlement to basic educational assistance  
15 under section 3020A of this title.

16 “(j) REGULATIONS.—The Secretary of Defense shall  
17 prescribe regulations for purposes of this section. Such  
18 regulations shall specify the manner and effect of an elec-  
19 tion to modify or revoke a transfer of entitlement under  
20 subsection (f)(2) and shall specify the manner of the appli-  
21 cability of the administrative provisions referred to in sub-  
22 section (g)(6) to a dependent to whom entitlement is  
23 transferred under this section.

1       “(k) SECRETARY CONCERNED DEFINED.—Notwith-  
 2 standing section 101(25) of this title, in this section, the  
 3 term ‘Secretary concerned’ means—

4               “(1) the Secretary of the Army with respect to  
 5 matters concerning the Army;

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

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

10              “(4) the Secretary of Defense with respect to  
 11 matters concerning the Coast Guard, or the Sec-  
 12 retary of Transportation when it is not operating as  
 13 a service in the Navy.”.

14       (b) SOURCE OF FUNDS FOR INCREASED USAGE.—

15 (1) Section 3035(b)(4) of title 38, United States Code,  
 16 is amended by inserting “or 3020A” after “section 3020”.

17 (2) Section 2006(b)(2)(D) of title 10, United States  
 18 Code, is amended by inserting “or 3020A” after “section  
 19 3020”.

20       (c) CLERICAL AMENDMENT.—The table of sections  
 21 at the beginning of chapter 30 of title 38, United States  
 22 Code, is amended by striking the item relating to section  
 23 3020 and inserting the following new items:

“3020. Transfer of entitlement to basic educational assistance: certain members  
 of the Armed Forces agreeing to additional service.

“3020A. Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills.”.

