

108TH CONGRESS  
1ST SESSION

# H. R. 1328

To amend title 38, United States Code, to extend the period over which an individual must make payment to the Secretary of Veterans Affairs to become entitled to educational assistance under the Montgomery GI Bill, to prospectively permit any servicemember to withdraw an election not to enroll under the Montgomery GI Bill, and to provide for certain servicemembers to become eligible for educational assistance under the Montgomery GI Bill.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2003

Mr. JONES of North Carolina (for himself and Mr. MILLER of Florida) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 38, United States Code, to extend the period over which an individual must make payment to the Secretary of Veterans Affairs to become entitled to educational assistance under the Montgomery GI Bill, to prospectively permit any servicemember to withdraw an election not to enroll under the Montgomery GI Bill, and to provide for certain servicemembers to become eligible for educational assistance under the Montgomery GI Bill.

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

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Veterans Educational  
5 Opportunities Enhancement Act of 2003”.

6 **SEC. 2. PERMITTING AN ELECTION TO REDUCE BASIC PAY**  
7 **OVER A PERIOD OF TWO YEARS.**

8       (a) IN GENERAL.—The first sentence of sections  
9 3011(b) and 3012(c) of title 38, United States Code, are  
10 each amended by striking “\$100 for each of the first 12  
11 months” and inserting “\$50 for each of the first 24  
12 months”.

13       (b) EFFECTIVE DATE.—The amendments made by  
14 subsection (a) shall apply to individuals who first become  
15 a member of the Armed Forces or first enter on active  
16 duty as a member of the Armed Forces on or after the  
17 date that is 90 days after the date of the enactment of  
18 this Act.

19 **SEC. 3. PERMITTING WITHDRAWAL OF ELECTION NOT TO**  
20 **ENROLL UNDER THE MONTGOMERY GI BILL.**

21       (a) IN GENERAL.—Chapter 30 of title 38, United  
22 States Code, is amended by inserting after section 3018C  
23 the following new section:

1 **“§ 3018D. Opportunity for active-duty personnel to**  
2 **withdraw election not to enroll**

3 “(a) Notwithstanding any other provision of this  
4 chapter, each qualified individual (described in subsection  
5 (b)) may withdraw an election made under section  
6 3011(c)(1) or 3012(d)(1) of this title not to receive edu-  
7 cational assistance under this chapter during an open pe-  
8 riod (described in subsection (c)). The qualified individual  
9 shall withdraw such election in accordance with this sec-  
10 tion and on such form as the Secretary of Defense shall  
11 prescribe for such purpose.

12 “(b) A qualified individual referred to in subsection  
13 (a) is an individual who meets each of the following re-  
14 quirements:

15 “(1) The individual first became a member of  
16 the Armed Forces or first entered on active duty as  
17 a member of the Armed Forces on or after the date  
18 of the enactment of this section.

19 “(2) The individual continues to serve, without  
20 a break in service, the period of service which, at the  
21 beginning of the open period, such individual was  
22 obligated to serve.

23 “(3) The individual—

24 “(A) serves the obligated period of service  
25 described in paragraph (2);

1           “(B) before completing such obligated pe-  
2           riod of service, is discharged or released from  
3           active duty for (i) a service-connected disability,  
4           (ii) a medical condition which preexisted such  
5           service and which the Secretary determines is  
6           not service connected, (iii) hardship, or (iv) a  
7           physical or mental condition that was not char-  
8           acterized as a disability and did not result from  
9           the individual’s own willful misconduct but did  
10          interfere with the individual’s performance of  
11          duty, as determined by the Secretary of each  
12          military department in accordance with regula-  
13          tions prescribed by the Secretary of Defense (or  
14          by the Secretary of Homeland Security with re-  
15          spect to the Coast Guard when it is not oper-  
16          ating as a service of the Navy); or

17          “(C) before completing such obligated pe-  
18          riod of service, is (i) discharged or released  
19          from active duty for the convenience of the Gov-  
20          ernment after completing not less than 20  
21          months of continuous active duty under that pe-  
22          riod of obligated service, if such period was less  
23          than three years, or 30 months of continuous  
24          active duty under that period of obligated serv-  
25          ice, if such period was at least three years, or

1 (ii) involuntarily discharged or released from  
2 active duty for the convenience of the Govern-  
3 ment as a result of a reduction in force, as de-  
4 termined by the Secretary concerned in accord-  
5 ance with regulations prescribed by the Sec-  
6 retary of Defense (or by the Secretary of  
7 Homeland Security with respect to the Coast  
8 Guard when it is not operating as a service in  
9 the Navy).

10 “(4) Before applying for benefits under this  
11 section, the individual—

12 “(A) completes the requirements of a sec-  
13 ondary school diploma (or equivalency certifi-  
14 cate); or

15 “(B) successfully completes (or otherwise  
16 receives academic credit for) the equivalent of  
17 12 semester hours in a program of education  
18 leading to a standard college degree.

19 “(5) Upon completion of such obligated period  
20 of service, the individual—

21 “(A) is discharged from service with an  
22 honorable discharge, is placed on the retired  
23 list, is transferred to the Fleet Reserve or Fleet  
24 Marine Corps Reserve, or is placed on the tem-  
25 porary disability retired list;

1 “(B) continues on active duty; or

2 “(C) is released from active duty for fur-  
3 ther service in a reserve component of the  
4 Armed Forces after service on active duty char-  
5 acterized by the Secretary concerned as honor-  
6 able service.

7 “(c) The open period referred to in subsection (a)  
8 with respect to a qualified individual is as follows:

9 “(1) Subject to paragraph (2), such period is  
10 the 90-day period preceding the date of the termi-  
11 nation of the initial obligated period of active duty  
12 required of the individual under section 3011 or  
13 3012 of this title.

14 “(2) In the case of a discharge or release under  
15 subparagraph (B) or (C) of subsection (b)(3), such  
16 period is the 90-day period preceding the anticipated  
17 date of such discharge or release.

18 “(d)(1) Subject to the succeeding provisions of this  
19 subsection, with respect to a qualified individual who with-  
20 draws, under subsection (a), an election under section  
21 3011(c)(1) or 3012(d)(1) of this title—

22 “(A) the basic pay of the qualified individual  
23 shall be reduced (in a manner determined by the  
24 Secretary concerned) until the total amount by  
25 which such basic pay is reduced equals \$1,200; or

1           “(B) to the extent that basic pay is not so re-  
2           duced before the qualified individual’s discharge or  
3           release from active duty as specified in subsection  
4           (b)(5), the Secretary concerned shall collect from the  
5           qualified individual an amount equal to the dif-  
6           ference between \$1,200 and the total amount of re-  
7           ductions under subparagraph (A), which shall be  
8           paid into the Treasury of the United States as mis-  
9           cellaneous receipts.

10          “(2) In the case of an individual described in clause  
11 (B) or (C) of subsection (b)(3) whose discharge or release  
12 from active duty prevents the reduction of the basic pay  
13 of such individual by \$1,200, an amount less than \$1,200.

14          “(e) With respect to qualified individuals referred to  
15 in subsection (d)(1)(B), no amount of educational assist-  
16 ance allowance under this chapter shall be paid to the  
17 qualified individual until the earlier of the date on which  
18 the Secretary concerned collects the applicable amount  
19 under clause (i) of such subsection.

20          “(f) A withdrawal under subsection (a) is irrevocable.

21          “(g) The Secretary concerned shall provide for notice  
22 of the opportunity under this section to withdraw an elec-  
23 tion made under section 3011(c)(1) or 3012(d)(1) of this  
24 title.”.

1           (b) CONFORMING AMENDMENTS.—(1) Sections  
2 3011(c)(1) and 3012(d)(1) of such title are each amended  
3 by striking “Any individual” in the third sentence and in-  
4 serting “Subject to section 3018D of this title, any indi-  
5 vidual”.

6           (2) Section 3017(b)(1) of such title is amended to  
7 read as follows:

8                   “(1) the total of—

9                           “(A) the amount reduced from the individ-  
10                           ual’s pay under section 3011(b), 3012(c),  
11                           3018(c), 3018A(b), 3018B(b), 3018C(b),  
12                           3018C(e), or 3018D(d) of this title;

13                           “(B) the amount reduced from the individ-  
14                           ual’s retired pay under section 3018C(e) or  
15                           3018D(d) of this title;

16                           “(C) the amount collected from the indi-  
17                           vidual by the Secretary under section 3018B(b),  
18                           3018C(b), 3018C(e), or 3018D(d) of this title;

19                           and

20                           “(D) the amount of any contribution made  
21                           by the individual under section 3011(e) or  
22                           3012(f) of this title, less”.

23           (c) CLERICAL AMENDMENT.—The table of sections  
24 at the beginning of such chapter is amended by inserting  
25 after the item relating to section 3018C the following new

1 item:

“3018D. Opportunity for active-duty personnel to withdraw election not to enroll.”.

2 **SEC. 4. OPPORTUNITY FOR CERTAIN ACTIVE-DUTY PER-**  
3 **SONNEL TO ENROLL UNDER THE MONT-**  
4 **GOMERY GI BILL.**

5 (a) IN GENERAL.—Chapter 30 of title 38, United  
6 States Code, as amended by section 3(a), is further  
7 amended by inserting after section 3018D the following  
8 new section:

9 **“§ 3018E. Opportunity for certain active-duty per-**  
10 **sonnel to enroll**

11 “(a)(1) Notwithstanding any other provision of this  
12 chapter, during the one-year period beginning on the date  
13 of the enactment of this section, a qualified individual (de-  
14 scribed in subsection (b)) may make an irrevocable elec-  
15 tion under this section to become entitled to basic edu-  
16 cational assistance under this chapter.

17 “(2) The Secretary of each military department shall  
18 provide for procedures for a qualified individual to make  
19 an irrevocable election under this section in accordance  
20 with regulations prescribed by the Secretary of Defense  
21 for the purpose of carrying out this section or which the  
22 Secretary of Homeland Security shall provide for such  
23 purpose with respect to the Coast Guard when it is not  
24 operating as a service in the Navy.

1       “(b) A qualified individual referred to in subsection  
2 (a) is an individual who meets each of the following re-  
3 quirements:

4           “(1) The individual first became a member of  
5 the Armed Forces or first entered on active duty as  
6 a member of the Armed Forces before July 1, 1985.

7           “(2) The individual has served on active duty  
8 without a break in service since the date the indi-  
9 vidual first became such a member or first entered  
10 on active duty as such a member.

11          “(3) The individual is serving on active duty  
12 during the one-year period referred to in subsection  
13 (a)(1).

14          “(4) The individual, before applying for benefits  
15 under this section, has completed the requirements  
16 of a secondary school diploma (or equivalency certifi-  
17 cate) or has successfully completed (or otherwise re-  
18 ceived academic credit for) the equivalent of 12 se-  
19 mester hours in a program of education leading to  
20 a standard college degree.

21          “(5) The individual, when discharged or re-  
22 leased from active duty, is discharged or released  
23 therefrom with an honorable discharge.

24       “(c)(1) Subject to the succeeding provisions of this  
25 subsection, with respect to a qualified individual who

1 makes an election under this section to become entitled  
2 to basic educational assistance under this chapter—

3 “(A) the basic pay of the qualified individual  
4 shall be reduced (in a manner determined by the  
5 Secretary concerned) until the total amount by  
6 which such basic pay is reduced is \$2,700; and

7 “(B) to the extent that basic pay is not so re-  
8 duced before the qualified individual’s discharge or  
9 release from active duty as specified in subsection  
10 (b)(5), at the election of the qualified individual—

11 “(i) the Secretary concerned shall collect  
12 from the qualified individual; or

13 “(ii) the Secretary concerned shall reduce  
14 the retired or retainer pay of the qualified indi-  
15 vidual by,

16 an amount equal to the difference between \$2,700  
17 and the total amount of reductions under subpara-  
18 graph (A), which shall be paid into the Treasury of  
19 the United States as miscellaneous receipts.

20 “(2)(A) The Secretary concerned shall provide for an  
21 18-month period, beginning on the date the qualified indi-  
22 vidual makes an election under this section, for the quali-  
23 fied individual to pay that Secretary the amount due  
24 under paragraph (1).

1 “(B) Nothing in subparagraph (A) shall be construed  
2 as modifying the period of eligibility for and entitlement  
3 to basic educational assistance under this chapter applica-  
4 ble under section 3031 of this title.

5 “(d) With respect to qualified individuals referred to  
6 in subsection (c)(1)(B), no amount of educational assist-  
7 ance allowance under this chapter shall be paid to the  
8 qualified individual until the earlier of the date on which—

9 “(1) the Secretary concerned collects the applica-  
10 ble amount under clause (i) of such subsection; or

11 “(2) the retired or retainer pay of the qualified  
12 individual is first reduced under clause (ii) of such  
13 subsection.

14 “(e) The Secretary concerned, in conjunction with the  
15 Secretary of Defense, shall provide for notice of the oppor-  
16 tunity under this section to elect to become entitled to  
17 basic educational assistance under this chapter.”.

18 (b) CONFORMING AMENDMENTS.—Section  
19 3017(b)(1) of such title, as amended by section 3(b), is  
20 further amended in each of subparagraphs (A), (B), and  
21 (C)—

22 (1) by striking “or” before “3018D(d)”; and

23 (2) by inserting “, or 3018E(c)” before “of this  
24 title”.

1           (c) CLERICAL AMENDMENT.—The table of sections  
2 at the beginning of such chapter, as amended by section  
3 3(c), is further amended by inserting after the item relat-  
4 ing to section 3018D the following new item:

“3018E. Opportunity for certain active-duty personnel to enroll.”.

○