

108TH CONGRESS
2^D SESSION

H. R. 4468

To amend title 38, United States Code, and title 10, United States Code, to provide for an opportunity for active duty personnel to withdraw an election not to participate in the program of educational assistance under the Montgomery GI Bill.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2004

Mr. VISCLOSKY (for himself, Mr. ACEVEDO-VILÁ, Mr. GRIJALVA, Mr. McDERMOTT, Mr. TOWNS, Mr. LYNCH, and Mr. SANDLIN) 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

A BILL

To amend title 38, United States Code, and title 10, United States Code, to provide for an opportunity for active duty personnel to withdraw an election not to participate in the program of 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 “Montgomery GI Bill
5 Second Chance Act of 2004”.

1 **SEC. 2. OPPORTUNITY FOR ACTIVE DUTY PERSONNEL TO**
2 **WITHDRAW AN ELECTION NOT TO PARTICI-**
3 **PATE IN THE MONTGOMERY GI BILL EDU-**
4 **CATION PROGRAM.**

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

8 **“§ 3018D. Opportunity for certain active-duty per-**
9 **sonnel to enroll**

10 “(a)(1) Notwithstanding any other provision of this
11 chapter, during the month of October in any year, begin-
12 ning with 2004, (hereinafter in this section referred to as
13 the ‘open season’) a qualified individual (described in sub-
14 section (b)) may make an irrevocable election under this
15 section to become entitled to basic educational assistance
16 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, on, or after
7 July 1, 1985.

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

12 “(3) The individual is serving on active duty
13 during the open season of the year involved.

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 \$1,200; 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 \$1,200
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 appli-
10 cable 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)(1) Except as provided in paragraph (3), a quali-
15 fied individual who is enrolled in the educational benefits
16 program provided by chapter 32 of this title and who
17 makes the election described in subsection (a)(1) shall be
18 disenrolled from such chapter 32 program as of the date
19 of such election.

20 “(2) For each individual who is disenrolled from such
21 program, the Secretary shall refund—

22 “(A) to the individual, as provided in section
23 3223(b) of this title and subject to subsection (b)(2)
24 of this section, the unused contributions made by the
25 individual to the Post-Vietnam Era Veterans Edu-

1 cation Account established pursuant to section
2 3222(a) of this title; and

3 “(B) to the Secretary of Defense the unused
4 contributions (other than contributions made under
5 section 3222(c) of this title) made by such Secretary
6 to the Account on behalf of such individual.

7 “(3) Any contribution made by the Secretary of De-
8 fense to the Post-Vietnam Era Veterans Education Ac-
9 count pursuant to subsection (c) of section 3222 of this
10 title on behalf of any individual referred to in paragraph
11 (1) shall remain in such account to make payments of ben-
12 efits to such individual under section 3015(f) of this title.

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

17 (b) CONFORMING AMENDMENTS.—(1) Sections
18 3011(c)(1) and 3012(d)(1) of such title are each amended
19 by striking “Any individual” in the third sentence and in-
20 serting “Subject to section 3018D of this title, any indi-
21 vidual”.

22 (2) Section 3015(f) of such title is amended by strik-
23 ing “or 3018C” and inserting “3018C, or 3018D”.

24 (3) Section 3017(b)(1) of such title is amended—

1 (A) in subparagraph (A), by striking “or
2 3018C(e)” and inserting “3018C(e), or 3018D(d)”;

3 (B) in subparagraph (B), by inserting “or
4 3018D(d)” after “3018C(e)”; or

5 (C) in subparagraph (C), by striking “or
6 3018C(e)” and inserting “3018C(e), or 3018D(d)”.

7 (c) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of such chapter is amended by inserting
9 after the item relating to section 3018C the following new
10 item:

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

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