

109TH CONGRESS
1ST SESSION

S. 43

To provide certain enhancements to the Montgomery GI Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001, terrorist attacks, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mr. HAGEL (for himself, Mr. COLEMAN, Mr. KENNEDY, Mr. DEWINE, and Mr. OBAMA) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To provide certain enhancements to the Montgomery GI Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001, terrorist attacks, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Montgomery GI Bill
5 Enhancement Act of 2005”.

1 **SEC. 2. EXEMPTION FROM PAYMENT OF INDIVIDUAL CON-**
2 **TRIBUTIONS UNDER MONTGOMERY GI BILL**
3 **OF INDIVIDUALS WHO SERVE AS ACTIVE**
4 **DUTY MEMBERS OF THE ARMED FORCES**
5 **UNDER EXECUTIVE ORDER 13235.**

6 (a) ACTIVE DUTY PROGRAM.—Notwithstanding sec-
7 tion 3011(b) of title 38, United States Code, no reduction
8 in basic pay otherwise required by such section shall be
9 made in the case of a covered member of the Armed
10 Forces.

11 (b) SELECTED RESERVE PROGRAM.—Notwith-
12 standing section 3012(c) of such title, no reduction in
13 basic pay otherwise required by such section shall be made
14 in the case of a covered member of the Armed Forces.

15 (c) TERMINATION OF ON-GOING REDUCTIONS IN
16 BASIC PAY.—In the case of a covered member of the
17 Armed Forces who first became a member of the Armed
18 Forces or first entered on active duty as a member of the
19 Armed Forces before the date of the enactment of this
20 Act and whose basic pay would, but for subsection (a) or
21 (b) of this section, be subject to reduction under section
22 3011(b) or 3012(c) of such title for any month beginning
23 on or after that date, the reduction of basic pay of such
24 covered member of the Armed Forces under such section
25 3011(b) or 3012(c), as applicable, shall cease commencing
26 with the first month beginning on or after that date.

1 (d) REFUND OF CONTRIBUTIONS.—(1) In the case
2 of any covered member of the Armed Forces whose basic
3 pay was reduced under section 3011(b) or 3012(c) of such
4 title for any month beginning before the date of the enact-
5 ment of this Act, the Secretary concerned shall pay to
6 such covered member of the Armed Forces an amount
7 equal to the aggregate amount of reductions of basic pay
8 of such member of the Armed Forces under such section
9 3011(b) or 3012(c), as applicable, as of that date.

10 (2) Any amount paid to a covered member of the
11 Armed Forces under paragraph (1) shall not be included
12 in gross income under the Internal Revenue Code of 1986.

13 (3) Amounts for payments made by a Secretary con-
14 cerned under paragraph (1) during fiscal year 2005 shall
15 be derived from amounts made available for such fiscal
16 year in an Act making supplemental appropriations for de-
17 fense and the reconstruction of Iraq.

18 (4) In this subsection, the term “Secretary con-
19 cerned” means—

20 (A) the Secretary of the Army, with respect to
21 matters concerning the Army;

22 (B) the Secretary of the Navy, with respect to
23 matters concerning the Navy or the Marine Corps;

24 (C) the Secretary of the Air Force, with respect
25 to matters concerning the Air Force; and

1 (D) the Secretary of Homeland Security, with
2 respect to matters concerning the Coast Guard.

3 (e) COVERED MEMBER OF THE ARMED FORCES DE-
4 FINED.—In this section, the term “covered member of the
5 Armed Forces” means any individual who serves on active
6 duty as a member of the Armed Forces during the pe-
7 riod—

8 (1) beginning on November 16, 2001, the date
9 of Executive Order 13235, relating to National
10 Emergency Construction Authority; and

11 (2) ending on the termination date of the Exec-
12 utive order referred to in paragraph (1).

13 **SEC. 3. OPPORTUNITY FOR INDIVIDUALS WHO SERVE AS**
14 **ACTIVE DUTY MEMBERS OF THE ARMED**
15 **FORCES UNDER EXECUTIVE ORDER 13235 TO**
16 **WITHDRAW ELECTION NOT TO ENROLL IN**
17 **MONTGOMERY GI BILL.**

18 Section 3018 of title 38, United States Code, is
19 amended—

20 (1) by redesignating subsections (c) and (d) as
21 subsection (d) and (e), respectively;

22 (2) by inserting after subsection (b) the fol-
23 lowing new subsection (c):

1 “(c)(1) Notwithstanding any other provision of this
2 chapter, during the one-year period beginning on the date
3 of the enactment of this subsection, an individual who—

4 “(A) serves on active duty as a member of the
5 Armed Forces during the period beginning on No-
6 vember 16, 2001, and ending on the termination
7 date of Executive Order 13235, relating to National
8 Emergency Construction Authority; and

9 “(B) has served continuously on active duty
10 without a break in service following the date the in-
11 dividual first becomes a member or first enters on
12 active duty as a member of the Armed Forces,

13 shall have the opportunity, on such form as the Secretary
14 of Defense shall prescribe, to withdraw an election under
15 section 3011(c)(1) or 3012(d)(1) of this title not to receive
16 education assistance under this chapter.

17 “(2) An individual described paragraph (1) who made
18 an election under section 3011(c)(1) or 3012(d)(1) of this
19 title and who—

20 “(A) while serving on active duty during the
21 one-year period beginning on the date of the enact-
22 ment of this subsection makes a withdrawal of such
23 election;

24 “(B) continues to serve the period of service
25 which such individual was obligated to serve;

1 “(C) serves the obligated period of service de-
2 scribed in subparagraph (B) or before completing
3 such obligated period of service is described by sub-
4 section (b)(3)(B); and

5 “(D) meets the requirements set forth in para-
6 graphs (4) and (5) of subsection (b),

7 is entitled to basic educational assistance under this chap-
8 ter.”; and

9 (3) in subsection (e), as so redesignated, by in-
10 serting “or (c)(2)(A)” after “(b)(1)”.

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