

110TH CONGRESS
1ST SESSION

S. 2139

To amend title 38, United States Code, provide educational assistance under the Montgomery GI Bill for members of the National Guard and Reserve who serve extended period of continuous active duty that include a prolonged period of service in certain theaters of operation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2007

Ms. KLOBUCHAR (for herself and Mr. COLEMAN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, provide educational assistance under the Montgomery GI Bill for members of the National Guard and Reserve who serve extended period of continuous active duty that include a prolonged period of service in certain theaters of operation, 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 “National Guard and
5 Reserve Educational Benefits Fairness Act of 2007”.

1 **SEC. 2. EDUCATIONAL ASSISTANCE UNDER THE MONT-**
 2 **GOMERY GI BILL FOR MEMBERS OF THE NA-**
 3 **TIONAL GUARD AND RESERVE WHO SERVE**
 4 **EXTENDED PERIOD OF CONTINUOUS ACTIVE**
 5 **DUTY THAT INCLUDE A PROLONGED PERIOD**
 6 **OF SERVICE IN CERTAIN THEATERS OF OP-**
 7 **ERATION.**

8 (a) BASIC EDUCATIONAL ASSISTANCE FOR CERTAIN
 9 MEMBERS OF THE NATIONAL GUARD AND RESERVE.—

10 (1) IN GENERAL.—Chapter 30 of title 38,
 11 United States Code, is amended by inserting after
 12 section 3012 the following new section:

13 **“§ 3012A. Basic educational assistance entitlement for**
 14 **members of the National Guard and Re-**
 15 **serve for extended service on active duty**
 16 **that includes prolonged service in certain**
 17 **theaters of operation**

18 “(a) An individual—

19 “(1) who as a Reserve (including as a member
 20 of the National Guard)—

21 “(A) on or after September 11, 2001,
 22 serves a period of active duty of at least 20
 23 months of continuous active duty in the Armed
 24 Forces; and

25 “(B) during the period of active duty serv-
 26 ice described in subparagraph (A), serves a pe-

1 riod of not less than 12 months in a theater of
2 operations designated by the Secretary of De-
3 fense for purposes of this section;

4 “(2) who completes the requirements of a sec-
5 ondary school diploma (or equivalency certificate), or
6 successfully completes (or otherwise receives aca-
7 demic credit for) the equivalent of 12 semester hours
8 in a program of education leading to a standard col-
9 lege degree, before applying for benefits under this
10 section; and

11 “(3) who, after completion of the service de-
12 scribed in paragraph (1)—

13 “(A) is discharged from service with an
14 honorable discharge, is placed on the retired
15 list, or is transferred to the Standby Reserve
16 after service as a Reserve (including service as
17 a member of the National Guard) characterized
18 by the Secretary concerned as honorable; or

19 “(B) continues service as a Reserve (in-
20 cluding as a member of the National Guard);

21 is entitled to basic educational assistance under this chap-
22 ter.

23 “(b)(1) An individual described by paragraph (1) of
24 subsection (a) who seeks entitlement under this section to
25 basic educational assistance under this chapter shall notify

1 the Secretary of an election of entitlement to assistance
2 under this chapter in such form and manner as the Sec-
3 retary and the Secretary of Defense shall jointly prescribe
4 for purposes of this section.

5 “(2) A notice of election under paragraph (1) shall
6 be made at such time or times as the Secretary and the
7 Secretary of Defense shall jointly prescribe for purposes
8 of this section.

9 “(3) Notwithstanding a notice of election under para-
10 graph (1), an individual covered by that paragraph is not
11 entitled to basic educational assistance under this chapter
12 unless and until the individual satisfies the requirements
13 of paragraphs (2) and (3) of subsection (a).

14 “(c)(1)(A) In the case of an individual making a no-
15 tice of election under subsection (b) who is on active duty
16 in the Armed Forces at the time of such notice, the basic
17 pay of such individual shall be reduced by \$100 for each
18 month following the month of the notice during which the
19 individual remains on active duty in the Armed Forces
20 until the number of months of such reduction equals 12
21 months.

22 “(B) If an individual covered by this paragraph
23 ceases to be on active duty in the Armed Forces before
24 the number of months of reduction in basic pay under sub-
25 paragraph (A) equals 12 months, the Secretary of Defense

1 shall collect from the individual, before the individual com-
2 mences receipt of basic educational assistance under this
3 chapter, an amount equal to—

4 “(i) \$1,200; minus

5 “(ii) the aggregate amount of the reduction in
6 basic pay of the individual under subparagraph (A).

7 “(2) In the case of an individual making a notice of
8 election under subsection (b) who is not on active duty
9 in the Armed Forces at the time of such notice, the Sec-
10 retary of Defense shall collect from the individual, before
11 the individual commences receipt of basic educational as-
12 sistance under this chapter, an amount equal to \$1,200.
13 The Secretary of Defense may collect any portion of such
14 amount through reductions in basic pay in accordance
15 with paragraph (1)(A) if the individual returns to active
16 duty in the Armed Forces after making the notice of elec-
17 tion but before the collection of such amount by the Sec-
18 retary of Defense.

19 “(3)(A) Any amount by which the basic pay of an
20 individual is reduced under this subsection shall revert to
21 the Treasury and shall not, for purposes of any Federal
22 law, be considered to have been received by or to be within
23 the control of the individual.

1 “(B) Any amount collected by the Secretary of De-
 2 fense under this subsection shall be deposited into the
 3 Treasury as miscellaneous receipts.”.

4 (2) CLERICAL AMENDMENT.—The table of sec-
 5 tions at the beginning of chapter 30 of such title is
 6 amended by inserting after the item relating to sec-
 7 tion 3012 the following new item:

“3012A. Basic educational assistance entitlement for members of the National
 Guard and Reserve for extended service on active duty that in-
 cludes prolonged service in certain theaters of operation.”.

8 (b) DURATION OF BASIC EDUCATIONAL ASSIST-
 9 ANCE.—Section 3013 of such title is amended—

10 (1) by redesignating subsections (e) and (f) as
 11 subsections (f) and (g), respectively; and

12 (2) by inserting after subsection (d) the fol-
 13 lowing new subsection (e):

14 “(e) Subject to section 3695 of this title, each indi-
 15 vidual entitled to basic educational assistance under sec-
 16 tion 3012A of this title is entitled to 36 months of edu-
 17 cational assistance benefits under this chapter (or the
 18 equivalent thereof in part-time educational assistance.”.

19 (c) AMOUNT OF ASSISTANCE.—

20 (1) IN GENERAL.—Section 3015 of such title is
 21 amended by adding at the end the following new
 22 subsection:

23 “(i) The amount of basic educational allowance pay-
 24 able under this chapter to an individual entitled to an edu-

1 cational assistance allowance under section 3012A of this
2 title is the amount determined under subsection (a).”.

3 (2) CONFORMING AMENDMENT.—Section
4 3014(b)(2)(C) of such title is amended by striking
5 “or (e)(1)” and inserting “(e)(1), or (i)(1)”.

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