

109TH CONGRESS  
1ST SESSION

# H. R. 3195

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.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. VISCLOSKY (for himself, Mr. KILDEE, Mr. BERRY, Mr. RANGEL, Mr. RUPPERSBERGER, Ms. SOLIS, Mr. GRIJALVA, Mr. McDERMOTT, Mr. TOWNS, Mr. LYNCH, Mr. McGOVERN, and Mr. TANNER) 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, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Montgomery GI Bill  
3 Second Chance Act of 2005”.

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

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

11 **“§ 3018D. Opportunity for certain active-duty per-**  
12 **sonnel to enroll**

13 “(a)(1) Notwithstanding any other provision of this  
14 chapter, during the month of October in any year, begin-  
15 ning with 2005, (hereinafter in this section referred to as  
16 the ‘open season’) a qualified individual (described in sub-  
17 section (b)) may make an irrevocable election under this  
18 section to become entitled to basic educational assistance  
19 under this chapter.

20 “(2) The Secretary of each military department shall  
21 provide for procedures for a qualified individual to make  
22 an irrevocable election under this section in accordance  
23 with regulations prescribed by the Secretary of Defense  
24 for the purpose of carrying out this section or which the  
25 Secretary of Homeland Security shall provide for such

1 purpose with respect to the Coast Guard when it is not  
2 operating as a service in the Navy.

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

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

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

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

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

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

1       “(c)(1) Subject to the succeeding provisions of this  
2 subsection, with respect to a qualified individual who  
3 makes an election under this section to become entitled  
4 to basic educational assistance under this chapter—

5               “(A) the basic pay of the qualified individual  
6 shall be reduced (in a manner determined by the  
7 Secretary concerned) until the total amount by  
8 which such basic pay is reduced is \$1,200; and

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

13                       “(i) the Secretary concerned shall collect  
14 from the qualified individual; or

15                       “(ii) the Secretary concerned shall reduce  
16 the retired or retainer pay of the qualified indi-  
17 vidual by, an amount equal to the difference be-  
18 tween \$1,200 and the total amount of reduc-  
19 tions under subparagraph (A), which shall be  
20 paid into the Treasury of the United States as  
21 miscellaneous receipts.

22       “(2)(A) The Secretary concerned shall provide for an  
23 18-month period, beginning on the date the qualified indi-  
24 vidual makes an election under this section, for the quali-

1 fied individual to pay that Secretary the amount due  
2 under paragraph (1).

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

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

11 “(1) the Secretary concerned collects the appli-  
12 cable amount under clause (i) of such subsection; or

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

16 “(e)(1) Except as provided in paragraph (3), a quali-  
17 fied individual who is enrolled in the educational benefits  
18 program provided by chapter 32 of this title and who  
19 makes the election described in subsection (a)(1) shall be  
20 disenrolled from such chapter 32 program as of the date  
21 of such election.

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

24 “(A) to the individual, as provided in section  
25 3223(b) of this title and subject to subsection (b)(2)

1 of this section, the unused contributions made by the  
 2 individual to the Post-Vietnam Era Veterans Edu-  
 3 cation Account established pursuant to section  
 4 3222(a) of this title; and

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

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

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

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

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

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

2           (A) in subparagraph (A), by striking “or  
3       3018C(e)” and inserting “3018C(e), or 3018D(d)”;

4           (B) in subparagraph (B), by inserting “or  
5       3018D(d)” after “3018C(e)”; or

6           (C) in subparagraph (C), by striking “or  
7       3018C(e)” and inserting “3018C(e), or 3018D(d)”.

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

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

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