To direct the Secretary of Veterans Affairs to establish a program under which certain veterans entitled to educational assistance under the laws administered by the Secretary can use such entitlement to start or purchase a qualifying business enterprise, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2011

Mr. FORTEBBERRY introduced the following bill; which was referred to the Committee on Veterans’ Affairs, and in addition to the Committees on Small Business and Agriculture, 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 direct the Secretary of Veterans Affairs to establish a program under which certain veterans entitled to educational assistance under the laws administered by the Secretary can use such entitlement to start or purchase a qualifying business enterprise, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans Entrepren-
eurial Transition Act of 2011” or the “VET Act of 2011”.

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SEC. 2. ESTABLISHMENT OF SMALL BUSINESS PROGRAM.

The Secretary of Veterans Affairs shall establish a program under which the Secretary shall allow eligible veterans to participate in the program described under section 3.

SEC. 3. VETERANS SMALL BUSINESS ENTREPRENEURSHIP PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Veterans Affairs shall, in consultation with the Administrator of the Small Business Administration, establish a program (hereinafter in this Act referred to as “the Program”) under which the Secretary may approve an eligible veteran to use Program benefits to start or acquire a qualifying business enterprise.

(b) AMOUNT AND PAYMENT OF BENEFITS.—

(1) IN GENERAL.—Under the Program, the Secretary shall provide for an eligible veteran to use the veteran’s entitlement to educational assistance under chapter 30 or 33 of title 38, United States Code, in accordance with this Act.

(2) AMOUNT.—

(A) IN GENERAL.—The maximum amount of benefits made available to a veteran under the Program shall not exceed the maximum value of—
(i) in the case of a veteran entitled to educational assistance under chapter 33 of title 38, United States Code, the amount equal to 36 months of educational assistance at the rate in effect under section 3313(c)(ii)(II) of such title; and

(ii) in the case of a veteran entitled to educational assistance under chapter 30 of such title, the amount equal to 36 months of educational assistance at the rate in effect under section 3015(a)(1) of such title.

(B) CHARGE TO ENTITLEMENT.—A veteran who receives a payment under the Program shall be charged for 36 months of the veteran’s entitlement to educational assistance under chapter 30 or 33 of title 38, United States Code.

(3) PAYMENT.—Payments to eligible veterans under the Program shall be made as follows:

(A) In the case of a veteran who is using the funds to start a new business enterprise, payment shall be made in not less than two lump-sum amounts, the first of which shall not exceed $2,500, to be used for the development
of the business plan, and the balance to be paid
upon the approval of the business plan.

(B) In the case of a veteran who is using
the funds to purchase an existing business en-
terprise or franchise business enterprise, pay-
ment shall be made in one lump-sum amount.

(C) In the case of a veteran who is using
the funds to purchase capital equipment, dura-
ble expense items, or professional services that
the Secretary determines are essential to oper-
ating a qualifying business, payment shall be
made in one or more lump-sum amounts.

(e) Eligibility.—An individual shall be an eligible
teacher for purposes of the Program if that individual—

(1) is a veteran;

(2) has completed at least—

(A) 36 months of full-time active duty
service in the Armed Forces; or

(B) 24 months of full-time active duty
service in the Armed Forces before being dis-
charged or separated for a service-connected
disability, as that term is defined in section 101
of title 38, United States Code;
(3) is entitled to 36 months of educational assistance under chapter 30 or 33 of title 38, United States Code;

(4) has last been discharged or separated from active duty service in the Armed Forces not more than 15 years before submitting an application to participate in the Program; and

(5) submits to the Secretary an application, in such form and containing such information as the Secretary may require, including the information described in subsection (f).

(d) USE OF PROGRAM BENEFITS.—An eligible veteran participating in the Program may use the Program benefits—

(1) in accordance with such limitations as the Secretary, in consultation with the Administrator, may by rule establish; and

(2) for such purposes related to starting or acquiring a qualifying business enterprise as the Secretary, in consultation with the Administrator, determines appropriate, including—

(A) purchasing goods or services necessary for the operation, expansion, or startup of a qualifying business enterprise;
(B) funding a project that is directed toward any economic development objective described under section 501(d) of the Small Business Investment Act of 1958;

(C) attending an entrepreneurship readiness program approved by the Secretary and designed to prepare the veteran for, and lead to the immediate subsequent ownership and management by the veteran of, a qualifying business enterprise; and

(D) acquiring a qualifying business enterprise.

(e) QUALIFYING BUSINESS ENTERPRISES.—The Secretary, in consultation with the Administrator, shall by rule establish a list of categories of business enterprises that the Secretary determines to be “qualifying business enterprises” for purposes of the Program, including the following:

(1) A small business concern (as such term is defined in section 3(a) of the Small Business Act).

(2) Franchise business enterprises.

(3) Existing business enterprises in which the eligible veteran has an ownership stake.

(4) Any other business enterprise the Secretary, in consultation with the Administrator, determines
appropriate and in accordance with the purposes of
the Program.

(f) DOCUMENTATION REQUIREMENTS.—The Sec-
retary, in considering an application from an eligible vet-
eran, may not approve that application unless that appli-
cation includes the following:

(1) A description of the use of the Program
benefits, including an identification and description
of the qualifying business enterprise.

(2) A certification that the eligible veteran ap-
plying to participate in the Program shall complete
such education and training relevant to the owner-
ship and operation of the qualifying business enter-
prise as the Secretary determines appropriate, in-
cluding, in the case of a startup, a Small Business
Development Center program (as described in sec-
section 21 of the Small Business Act) designed to re-
sult in the completion of a business plan for the
qualifying business enterprise.

(3) With regard to each category of qualifying
business enterprise (as established in the list de-
scribed in subsection (e)), such certifications as the
Secretary, in consultation with the Administrator,
shall by rule require, including—
(A) in the case of a business enterprise already in operation at the time of the application, such evidence as the Secretary, in consultation with the Administrator, determines appropriate of—

(i) good standing;

(ii) profitable operation; and

(iii) guarantees pertaining to the purchase of the enterprise;

(B) in the case of a franchise business enterprise, such evidence as the Secretary, in consultation with the Administrator, determines appropriate of—

(i) compliance with applicable State and Federal laws on franchises;

(ii) training in conformation with the industry standard; and

(iii) an acceptably low loan failure rate of similarly situated business enterprises for loans guaranteed under the Small Business Act; and

(C) in the case of a business enterprise that is a startup, or that is otherwise not in operation at the time of the application—
(i) a business plan for the operation
of that enterprise, prepared with the as-
sistance of any agency that the Secretary
determines appropriate, that leads to prof-
itable operation within a reasonable time
frame, and that includes such other infor-
mation as the Secretary, in consultation
with the Administrator, determines appro-
priate; or

(ii) a business plan approved by a per-
son designated by the Secretary, in con-
sultation with the Administrator, from
among—

(I) any department or agency of
the Federal government;

(II) an institution or higher
learning; or

(III) a non profit enterprise.

SEC. 4. USE OF BENEFITS IN QUALIFYING FOR SMALL BUSI-
NESS LOANS AND FARM LOAN.

(a) SMALL BUSINESS LOANS.—In determining the
creditworthiness of a veteran for a loan guaranteed by the
Administrator under the Small Business Act, all benefits
made available to the veteran under the program estab-
lished under section 3 shall be taken into account.
(b) **FARM LOANS.**—In determining the creditworthiness of a veteran for a loan made or guaranteed pursuant to the Consolidated Farm and Rural Development Act, the Secretary of Agriculture shall take into account all benefits made available to the veteran under the program established under section 3.

**SEC. 5. SURVIVORS’ BENEFITS.**

(a) **IN GENERAL.**—In the event that a veteran who has received more than $2,500 in benefits under this Act dies before receiving the balance of any benefits payable to the veteran under this Act, the Secretary may pay any benefits approved to be paid to the veteran to a survivor of the veteran who is designated by the veteran for such purpose.

(b) **LIMITATION ON SURVIVOR ELIGIBILITY.**—To be eligible to be a survivor of a veteran for purposes of this section, an individual must be at least 18 years of age at the time of death of the veteran and must have inherited the business from the veteran at the time of the veteran’s death.

(c) **PERIOD OF SURVIVOR ELIGIBILITY.**—The period during which a survivor of a veteran is eligible to receive benefits under this section is the greater of—

(1) the five-year period beginning on the date of the veteran’s death; or

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(2) the period beginning on the date of the veteran’s death and ending upon the termination of the longest term of any business loan obtained by the veteran before the veteran’s death for the business enterprise for which the veteran received benefits under this Act.

(d) LIMITATION ON USE OF FUNDS TO SECURE LOANS.—A survivor of a veteran who receives benefits under this section may not use the benefits to secure any new loan.

(e) DUPLICATION OF BENEFITS.—If the survivor of a veteran who receives benefits under this section is also eligible to receive benefits under section 3, the survivor may not use benefits payable under section 3 for a business enterprise other than the business enterprise for which the veteran receives benefits under this section. The survivor may use benefit payable to the survivor under section 3 to affect the transfer into the survivor’s name of 100 percent of the assets, liabilities, and operations of the business enterprise for which the veteran receives benefits under this section.

SEC. 6. DEFINITIONS.

In this Act:

(1) The term “Secretary” means the Secretary of Veterans Affairs.
(2) The term “Administrator” means the Administrator of the Small Business Administration.

(3) The term “veteran” has the meaning given that term in section 101 of title 38, United States Code.

(4) The term “institution of higher learning” has the meaning given such term in 3452(f) of title 38, United States Code.

(5) The term “Program benefits” means payments described in section 3.

(6) The term “franchise business enterprise” means any continuing commercial relationship or arrangement, whatever it may be called, in which the terms of the offer or contract specify, or the franchise seller promises or represents, orally or in writing, that—

(A) the franchisee will obtain the right to operate a business that is identified or associated with the franchisor’s trademark, or to offer, sell, or distribute goods, services, or commodities that are identified or associated with the franchisor’s trademark;

(B) the franchisor will exert or has authority to exert a significant degree of control over the franchisee’s method of operation, or provide
significant assistance in the franchisee’s method of operation; and

(C) as a condition of obtaining or commencing operation of the franchise business enterprise, the franchisee makes a required payment or commits to make a required payment to the franchisor or its affiliate.

(7) The term “franchisee” means any person who is granted a franchise business enterprise.

(8) The term “franchisor” means any person who grants a franchise business enterprise and participates in the franchise relationship. Unless otherwise stated, such term includes subfranchisors.

(9) The term “subfranchisor” means a person who functions as a franchisor by engaging in both pre-sale activities and post-sale performance.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on the date that is one year after the date of the enactment of this Act.