

112TH CONGRESS
2D SESSION

H. R. 4072

To amend title 38, United States Code, to improve employment services for veterans by consolidating various programs in the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2012

Mr. MILLER of Florida (for himself and Mr. STUTZMAN) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on the Budget, 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, to improve employment services for veterans by consolidating various programs in the Department of Veterans Affairs, 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 “Consolidating Veteran
5 Employment Services for Improved Performance Act of
6 2012”.

1 **SEC. 2. TRANSFER OF DEPARTMENT OF LABOR VETERANS**
2 **PROGRAMS TO DEPARTMENT OF VETERANS**
3 **AFFAIRS.**

4 (a) TRANSFER OF FUNCTIONS.—Effective October 1,
5 2013, there shall be transferred to the Secretary of Vet-
6 erans Affairs all functions performed under the following
7 programs of the Department of Labor, and all personnel,
8 assets, and liabilities pertaining to such programs, imme-
9 diately before such transfer occurs:

10 (1) Job counseling, training, and placement
11 services for veterans under chapter 41 of title 38,
12 United States Code.

13 (2) Employment and training of veterans under
14 chapter 42 of such title.

15 (3) Administration of employment and employ-
16 ment rights of members of the uniformed services
17 under chapter 43 of such title.

18 (4) Homeless veterans reintegration programs
19 under chapter 20 of such title.

20 (b) BUDGET REQUEST.—Under section 1105 of title
21 31, United States Code, the President shall include in the
22 President's budget request for the Department of Vet-
23 erans Affairs for fiscal year 2014, and for each subsequent
24 fiscal year, funding requested for the functions referred
25 to in subsection (a).

1 (c) REFERENCES.—Any reference in any other Fed-
2 eral law, Executive order, rule, regulation, or delegation
3 of authority, or any document of or pertaining to a depart-
4 ment or office from which a function is transferred by this
5 Act—

6 (1) to the head of such department or office is
7 deemed to refer to the head of the department or of-
8 fice to which such function is transferred; or

9 (2) to such department or office is deemed to
10 refer to the department or office to which such func-
11 tion is transferred.

12 (d) EXERCISE OF AUTHORITIES.—Except as other-
13 wise provided by law, a Federal official to whom a function
14 is transferred by this Act may, for purposes of performing
15 the function, exercise all authorities under any other provi-
16 sion of law that were available with respect to the perform-
17 ance of that function to the official responsible for the per-
18 formance of the function immediately before the effective
19 date of the transfer of the function under this Act.

20 (e) SAVINGS PROVISIONS.—

21 (1) LEGAL DOCUMENTS.—All orders, deter-
22 minations, rules, regulations, permits, grants, loans,
23 contracts, agreements, certificates, licenses, and
24 privileges—

1 (A) that have been issued, made, granted,
2 or allowed to become effective by the President,
3 the Secretary of Labor, the Secretary of Vet-
4 erans Affairs, any officer or employee of any of-
5 fice transferred by this Act, or any other Gov-
6 ernment official, or by a court of competent ju-
7 risdiction, in the performance of any function
8 that is transferred by this Act, and

9 (B) that are in effect on the effective date
10 of such transfer (or become effective after such
11 date pursuant to their terms as in effect on
12 such effective date),

13 shall continue in effect according to their terms until
14 modified, terminated, superseded, set aside, or re-
15 voked in accordance with law by the President, any
16 other authorized official, a court of competent juris-
17 diction, or operation of law.

18 (2) PROCEEDINGS.—This Act shall not affect
19 any proceedings or any application for any benefits,
20 service, license, permit, certificate, or financial as-
21 sistance pending on the date of the enactment of
22 this Act before an office transferred by this Act, but
23 such proceedings and applications shall be contin-
24 ued. Orders shall be issued in such proceedings, ap-
25 peals shall be taken therefrom, and payments shall

1 be made pursuant to such orders, as if this Act had
2 not been enacted, and orders issued in any such pro-
3 ceeding shall continue in effect until modified, termi-
4 nated, superseded, or revoked by a duly authorized
5 official, by a court of competent jurisdiction, or by
6 operation of law. Nothing in this subsection shall be
7 considered to prohibit the discontinuance or modi-
8 fication of any such proceeding under the same
9 terms and conditions and to the same extent that
10 such proceeding could have been discontinued or
11 modified if this Act had not been enacted.

12 (3) SUITS.—This Act shall not affect suits com-
13 menced before the date of the enactment of this Act,
14 and in all such suits, proceeding shall be had, ap-
15 peals taken, and judgments rendered in the same
16 manner and with the same effect as if this Act had
17 not been enacted.

18 (4) NONABATEMENT OF ACTIONS.—No suit, ac-
19 tion, or other proceeding commenced by or against
20 the Department of Labor or the Secretary of Labor,
21 or by or against any individual in the official capac-
22 ity of such individual as an officer or employee of an
23 office transferred by this Act, shall abate by reason
24 of the enactment of this Act.

1 (5) CONTINUANCE OF SUITS.—If any Govern-
2 ment officer in the official capacity of such officer
3 is party to a suit with respect to a function of the
4 officer, and under this Act such function is trans-
5 ferred to any other officer or office, then such suit
6 shall be continued with the other officer or the head
7 of such other office, as applicable, substituted or
8 added as a party.

9 (6) ADMINISTRATIVE PROCEDURE AND JUDI-
10 CIAL REVIEW.—Except as otherwise provided by this
11 Act, any statutory requirements relating to notice,
12 hearings, action upon the record, or administrative
13 or judicial review that apply to any function trans-
14 ferred by this Act shall apply to the exercise of such
15 function by the head of the Federal agency, and
16 other officers of the agency, to which such function
17 is transferred by this Act.

18 (f) TRANSFER OF ASSETS.—Except as otherwise pro-
19 vided in this Act, so much of the personnel, property,
20 records, and unexpended balances of appropriations, allo-
21 cations, and other funds employed, used, held, available,
22 or to be made available in connection with a function
23 transferred to an official or agency by this Act shall be
24 available to the official or the head of that agency, respec-
25 tively, at such time or times as the Director of the Office

1 of Management and Budget directs for use in connection
2 with the functions transferred.

3 (g) DELEGATION AND ASSIGNMENT.—Except as oth-
4 erwise expressly prohibited by law or otherwise provided
5 in this Act, an official to whom functions are transferred
6 under this Act (including the head of any office to which
7 functions are transferred under this Act) may delegate
8 any of the functions so transferred to such officers and
9 employees of the office of the official as the official may
10 designate, and may authorize successive redelegations of
11 such functions as may be necessary or appropriate. No
12 delegation of functions under this section or under any
13 other provision of this Act shall relieve the official to whom
14 a function is transferred under this Act of responsibility
15 for the administration of the function.

16 (h) AUTHORITY OF DIRECTOR OF THE OFFICE OF
17 MANAGEMENT AND BUDGET WITH RESPECT TO FUNC-
18 TIONS TRANSFERRED.—

19 (1) DETERMINATIONS.—If necessary, the Di-
20 rector of Management and Budget shall make any
21 determination of the functions that are transferred
22 under this Act.

23 (2) INCIDENTAL TRANSFERS.—The Director, at
24 such time or times as the Director shall provide,
25 may make such determinations as may be necessary

1 with regard to the functions transferred by this Act,
2 and to make such additional incidental dispositions
3 of personnel, assets, liabilities, grants, contracts,
4 property, records, and unexpended balances of ap-
5 propriations, authorizations, allocations, and other
6 funds held, used, arising from, available to, or to be
7 made available in connection with such functions, as
8 may be necessary to carry out the provisions of this
9 Act. The Director shall provide for the termination
10 of the affairs of all entities terminated by this Act
11 and for such further measures and dispositions as
12 may be necessary to effectuate the purposes of this
13 Act.

14 (i) CERTAIN VESTING OF FUNCTIONS CONSIDERED
15 TRANSFERS.—For purposes of this Act, the vesting of a
16 function in a department or office pursuant to reestablish-
17 ment of an office shall be considered to be the transfer
18 of the function.

19 (j) AVAILABILITY OF EXISTING FUNDS.—Existing
20 appropriations and funds available for the performance of
21 functions, programs, and activities terminated pursuant to
22 this Act shall remain available, for the duration of their
23 period of availability, for necessary expenses in connection
24 with the termination and resolution of such functions, pro-
25 grams, and activities.

1 (k) DEFINITIONS.—For purposes of this Act—

2 (1) the term “function” includes any duty, obli-
3 gation, power, authority, responsibility, right, privi-
4 lege, activity, or program; and

5 (2) the term “office” includes any office, ad-
6 ministration, agency, bureau, institute, council, unit,
7 organizational entity, or component thereof.

8 **SEC. 3. DEPUTY UNDER SECRETARY OF VETERANS AF-**
9 **FAIRS FOR VETERANS’ EMPLOYMENT AND**
10 **TRAINING.**

11 (a) IN GENERAL.—Subsection (a) of section 4102A
12 of title 38, United States Code, is amended to read as
13 follows:

14 “(a) DEPUTY UNDER SECRETARY FOR VETERANS’
15 EMPLOYMENT AND TRAINING.—(1) There is established
16 within the Department a Deputy Under Secretary for Vet-
17 erans’ Employment and Training, who shall formulate and
18 implement all departmental policies and procedures to
19 carry out—

20 “(A) the purposes of this chapter, chapter 42,
21 and chapter 43 of this title; and

22 “(B) all other Department employment, unem-
23 ployment, and training programs to the extent they
24 affect veterans.

1 “(2) The employees of the Department administering
 2 chapter 43 of this title shall be administratively and func-
 3 tionally responsible to the Deputy Under Secretary for
 4 Veterans’ Employment and Training.”.

5 (b) CLERICAL AMENDMENTS.—Chapter 41 of title
 6 38, United States Code, is amended as follows:

7 (1) The section heading of section 4102A of
 8 such title is amended to read as follows:

9 **“§ 4102A. Deputy Under Secretary for Veterans’ Em-**
 10 **ployment and Training; program func-**
 11 **tions; Regional Administrators”.**

12 (2) The item relating to such section in the
 13 table of sections at the beginning of such chapter is
 14 amended to read as follows:

“4102A. Deputy Under Secretary for Veterans’ Employment and Training; pro-
 gram functions; Regional Administrators.”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall take effect on October 1, 2013.

17 **SEC. 4. CONSOLIDATION OF DISABLED VETERANS OUT-**
 18 **REACH PROGRAM AND LOCAL VETERANS’**
 19 **EMPLOYMENT REPRESENTATIVES.**

20 (a) CONSOLIDATION.—

21 (1) IN GENERAL.—Section 4104 of title 38,
 22 United States Code, is amended to read as follows:

1 **“§ 4104. Veteran employment specialists**

2 “(a) REQUIREMENT FOR EMPLOYMENT BY
3 STATES.—(1) Subject to approval by the Secretary, a
4 State shall employ such full- or part-time veteran employ-
5 ment specialists as the State determines appropriate and
6 efficient to carry out the following:

7 “(A) Employment, training, and placement
8 services under this chapter.

9 “(B) Intensive services under this chapter to
10 meet the employment needs of eligible veterans with
11 the following priority in the provision of services:

12 “(i) Special disabled veterans.

13 “(ii) Other disabled veterans.

14 “(iii) Other eligible veterans in accordance
15 with priorities determined by the Secretary tak-
16 ing into account applicable rates of unemploy-
17 ment and the employment emphases set forth in
18 chapter 42 of this title.

19 “(2) In the provision of services in accordance with
20 this subsection, maximum emphasis in meeting the em-
21 ployment and training needs of veterans shall be placed
22 on assisting economically or educationally disadvantaged
23 veterans.

24 “(b) PRINCIPAL DUTIES.—As principal duties, vet-
25 eran employment specialists shall—

1 “(1) conduct outreach to employers in the area
2 to assist veterans and disabled veterans in gaining
3 employment, including conducting seminars for em-
4 ployers and, in conjunction with employers, con-
5 ducting job search workshops and establishing job
6 search groups; and

7 “(2) facilitate employment, training, and place-
8 ment services furnished to veterans and disabled vet-
9 erans in a State under the applicable State employ-
10 ment service delivery systems.

11 “(c) REQUIREMENT FOR QUALIFIED VETERANS.—

12 (1) A State shall, to the maximum extent practicable, em-
13 ploy qualified veterans to carry out the services referred
14 to in subsection (a). Preference shall be given in the ap-
15 pointment of such specialists to qualified disabled vet-
16 erans. Preference shall be accorded in the following order:

17 “(A) To qualified service-connected disabled
18 veterans.

19 “(B) If no veteran described in subparagraph
20 (A) is available, to qualified eligible veterans.

21 “(C) If no veteran described in subparagraph
22 (A) or (B) is available, then to qualified eligible per-
23 sons.

24 “(2)(A) Each State that employs a veteran employ-
25 ment specialist under this section shall submit to the Sec-

1 retary an annual report on the qualifications used by the
 2 State in making hiring determinations for such specialists
 3 and the salary structure under which such specialists are
 4 compensated.

5 “(B) The Secretary shall submit to the Committees
 6 on Veterans’ Affairs of the Senate and House of Rep-
 7 resentatives an annual report summarizing the reports
 8 submitted under subparagraph (A).

9 “(d) PART-TIME EMPLOYEES.—A part-time veteran
 10 employment specialist shall perform the functions of a vet-
 11 eran employment specialist under this section on a half-
 12 time basis.

13 “(e) REPORTING.—Each veteran employment spe-
 14 cialist shall be administratively responsible to the manager
 15 of the employment service delivery system and shall pro-
 16 vide reports, not less frequently than quarterly, to the
 17 manager of such office and to the Director for Veterans’
 18 Employment and Training for the State regarding compli-
 19 ance with Federal law and regulations with respect to spe-
 20 cial services and priorities for eligible veterans and eligible
 21 persons.”.

22 (2) CLERICAL AMENDMENT.—The table of sec-
 23 tions at the beginning of such chapter is amended
 24 by striking the item relating to section 4104 and in-
 25 serting the following new item:

“4104. Veteran employment specialists.”.

1 (b) CONFORMING AMENDMENTS.—Such title is fur-
2 ther amended—

3 (1) by striking section 4103A and by striking
4 the item relating to such section in the table of sec-
5 tions at the beginning of chapter 41 of such title;

6 (2) in section 4102A—

7 (A) in subsection (b)—

8 (i) in paragraph (5)—

9 (I) by striking subparagraph (B)
10 and redesignating subparagraph (C)
11 as subparagraph (B);

12 (II) by amending subparagraph
13 (A) to read as follows:

14 “(A) veteran employment specialists ap-
15 pointed under section 4104(a) of this title;
16 and”; and

17 (III) in subparagraph (B), as so
18 redesignated, by striking “such spe-
19 cialists and representatives described
20 in subparagraphs (A) and (B)” and
21 inserting “such representatives de-
22 scribed in subparagraph (A)”; and

23 (ii) in paragraph (7), by striking “dis-
24 abled veterans’ outreach program special-
25 ists and through local veterans’ employ-

ment representatives” and inserting “veteran employment specialists”;

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking “sections 4103A(a) and” and inserting “section”; and

(II) by striking “section 4103A or”;

(ii) in paragraph (2)(A)—

(I) in clause (i)(I)—

(aa) by striking “disabled veterans’ outreach program specialists and local veterans’ employment representatives” and inserting “veteran employment specialists”; and

(bb) by striking “sections 4103A and 4104” and inserting “section 4104”; and

(II) in clause (iii), by striking “disabled veterans’ outreach program specialist or a local veterans’ employment representative” and inserting “veteran employment specialist”;

1 (iii) in paragraph (4), by striking
2 “4103A or”;

3 (iv) in paragraph (5), by striking
4 “disabled veterans’ outreach program spe-
5 cialist and local veterans’ employment rep-
6 resentative” and inserting “veteran em-
7 ployment specialist”;

8 (v) in paragraph (7), by striking
9 “4103A or”; and

10 (vi) in paragraph (8)(A)—

11 (I) by striking “4103A or”; and

12 (II) by striking “disabled vet-
13 erans’ outreach program specialist or
14 a local veterans’ employment rep-
15 resentative” and inserting “veteran
16 employment specialist”; and

17 (C) in subsection (f)(1), by striking “dis-
18 abled veterans’ outreach program specialists
19 and local veterans’ employment representatives”
20 and inserting “veteran employment specialists”;
21 and

22 (3) in section 4109(a), by striking “disabled
23 veterans’ outreach program specialists, local vet-
24 erans’ employment representatives” and inserting
25 “veteran employment specialists”;

1 (4) in section 4112(d)—

2 (A) in paragraph (1), by striking “disabled
3 veterans’ outreach program specialist” and in-
4 serting “veteran employment specialist”; and

5 (B) by striking paragraph (2) and redesign-
6 ating paragraph (3) as paragraph (2); and

7 (5) in section 3672(d)(1), by striking “disabled
8 veterans’ outreach program specialists under section
9 4103A” and inserting “veteran employment special-
10 ists appointed under section 4104(a)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on October 1, 2013.

13 **SEC. 5. ADDITIONAL TECHNICAL AND CONFORMING**
14 **AMENDMENTS.**

15 (a) CHAPTER 41.—Chapter 41 of title 38, United
16 States Code, as amended by this Act, is further amended
17 as follows:

18 (1) By striking “Assistant Secretary of Labor
19 for Veterans’ Employment and Training” each place
20 it appears and inserting “Deputy Under Secretary
21 for Veterans’ Employment and Training”.

22 (2) By striking “Department of Labor” each
23 place it appears and inserting “Department”.

24 (3) By striking “Secretary of Labor” each place
25 it appears and inserting “Secretary”.

1 (4) In section 4101, by striking paragraph (8).

2 (5) In section 4102A(b)—

3 (A) in paragraph (1), by striking “such
4 Assistant Secretary” and inserting “such Dep-
5 uty Under Secretary”; and

6 (B) in paragraph (3), by striking “and
7 consulting with the Secretary of Veterans Af-
8 fairs”.

9 (6) In section 4105(b), by striking “and the
10 Secretary of Veterans Affairs” both places it ap-
11 pears.

12 (7) By striking section 4108.

13 (8) In the table of sections at the beginning of
14 such chapter, by striking the item relating to section
15 4108.

16 (9) In section 4110(d), by striking paragraph
17 (1) and redesignating paragraphs (2) through (6) as
18 paragraphs (1) through (5), respectively.

19 (10) In section 4110A(b), by striking “Con-
20 gress” and inserting “the Committees on Veterans’
21 Affairs of the Senate and House of Representa-
22 tives”.

23 (11) In subsections (b) through (h) of section
24 4114, by striking “Assistant Secretary” each place
25 it appears and inserting “Deputy Under Secretary”.

1 (b) CHAPTER 42.—Chapter 42 of title 38, United
2 States Code, is amended as follows:

3 (1) By striking “Secretary of Labor” each place
4 it appears and inserting “Secretary”.

5 (2) By striking “Department of Labor” each
6 place it appears and inserting “Department”.

7 (c) CHAPTER 43.—Chapter 43 of title 38, United
8 States Code, is amended as follows:

9 (1) In section 4303, by striking paragraph (11).

10 (2) By striking “Secretary of Veterans Affairs”
11 each place it appears and inserting “Secretary”.

12 (3) In section 4321, by striking “(through the
13 Veterans’ Employment and Training Service)”.

14 (4) In section 4332(a)(1), by striking “of
15 Labor”.

16 (5) In section 4333, by striking “, the Sec-
17 retary of Defense, and the Secretary of Veterans Af-
18 fairs” and inserting “and the Secretary of Defense”.

19 (d) CHAPTER 20.—Chapter 20 of title 38, United
20 States Code, is amended as follows:

21 (1) In section 2003(a)(4), by striking “of the
22 Department of Labor”.

23 (2) In section 2011(g)(2), by striking “the De-
24 partment of Labor,”.

25 (3) In section 2021—

1 (A) by striking “Secretary of Labor” each
2 place it appears and inserting “Secretary”; and

3 (B) in subsection (c)—

4 (i) by striking the subsection heading
5 and inserting the following:

6 “(c) ADMINISTRATION THROUGH DEPUTY UNDER
7 SECRETARY FOR VETERANS’ EMPLOYMENT AND TRAIN-
8 ING.—”; and

9 (ii) by striking “Assistant Secretary
10 of Labor for Veterans’ Employment and
11 Training” and inserting “Deputy Under
12 Secretary for Veterans’ Employment and
13 Training”.

14 (4) In section 2021A—

15 (A) by striking “Secretary of Labor” each
16 place it appears and inserting “Secretary”; and

17 (B) in subsection (d)—

18 (i) by striking the subsection heading
19 and inserting the following:

20 “(d) ADMINISTRATION THROUGH DEPUTY UNDER
21 SECRETARY FOR VETERANS’ EMPLOYMENT AND TRAIN-
22 ING.—”; and

23 (ii) by striking “Assistant Secretary
24 of Labor for Veterans’ Employment and
25 Training” and inserting “Deputy Under

1 Secretary for Veterans’ Employment and
2 Training’’.

3 (5) In section 2023—

4 (A) in subsection (a), by striking “and the
5 Secretary of Labor (hereinafter in this section
6 referred to as the ‘Secretaries’)”; and

7 (B) by striking “Secretaries” each place it
8 appears and inserting “Secretary”.

9 (6) In section 2065(b)(5), by striking subpara-
10 graph (E) and redesignating subparagraphs (F)
11 through (H) as subparagraphs (E) through (G), re-
12 spectively.

13 (7) In section 2066(a)(3), by striking subpara-
14 graph (A) and redesignating subparagraphs (B)
15 through (G) as subparagraphs (A) through (F), re-
16 spectively.

17 (e) OTHER PROVISIONS OF TITLE 38.—Title 38,
18 United States Code, is further amended as follows:

19 (1) In section 542(a)(2)(B), by striking clause
20 (i) and redesignating clauses (ii) and (iii) as clauses
21 (i) and (ii), respectively.

22 (2) In section 544(a)(2)(B), by striking clause
23 (i) and redesignating clauses (ii) through (vi) as
24 clauses (i) through (v), respectively.

1 (3) In section 3118(b), by striking “and the As-
2 sistant Secretary for Veterans’ Employment in the
3 Department of Labor”.

4 (4) In section 3119(c), by striking “Education,
5 the Assistant Secretary for Veterans’ Employment
6 in the Department of Labor,”.

7 (5) In section 3121(a)(3)—

8 (A) by striking “, (B)” and inserting “and
9 (B)”;

10 (B) by striking “, and (C) one representa-
11 tive of the Assistant Secretary of Labor for
12 Veterans’ Employment and Training of the De-
13 partment of Labor. (b) The Secretary shall, on
14 a regular basis, consult with and seek the ad-
15 vice of the Committee with respect to the ad-
16 ministration of veterans’ rehabilitation pro-
17 grams under this title”.

18 (6) In section 3692(a), by striking “and the As-
19 sistant Secretary of Labor for Veterans’ Employ-
20 ment and Training shall be ex officio members” and
21 inserting “an ex officio member”.

22 (7) In section 6306—

23 (A) in subsection (a), by striking “shall ar-
24 range with the Secretary of Labor for the State
25 employment service to match” and inserting

1 “shall ensure that the State employment service
2 matches”; and

3 (B) in subsection (b), by striking “, in con-
4 sultation with the Secretary of Labor,”.

5 (f) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on October 1, 2013.

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