

Public Law 100-689
100th Congress

An Act

To amend title 38, United States Code, to improve the education, home loan guaranty, and other programs of the Veterans' Administration; and for other purposes.

Nov. 18, 1988
[S. 2049]

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

Veterans'
Benefits and
Programs
Improvement
Act of 1988.
Armed Forces.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Benefits and Programs Improvement Act of 1988".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATION PROGRAMS

PART A—PROVISIONS RELATING TO MONTGOMERY GI BILL AND
CERTAIN OTHER EDUCATION PROGRAMS

SEC. 101. MONTGOMERY GI BILL DEATH BENEFIT.

(a) IN GENERAL.—Subchapter II of chapter 30 is amended by adding at the end the following new section:

“§ 1417. Death benefit

“(a)(1) In the event of the service-connected death of any individual—

“(A) who—

“(i) is entitled to basic educational assistance under this chapter; or

“(ii) is on active duty in the Armed Forces and but for section 1411(a)(1)(A)(i) or division (i) or (ii) of section 1412(a)(1)(A) of this title would be eligible for such basic educational assistance; and

“(B) who dies while on active duty,
the Administrator shall make a payment, subject to paragraph (2)(B) of this subsection, in the amount described in subsection (b) of this section to the person or persons described in paragraph (2)(A) of this subsection.

“(2)(A) The payment referred to in paragraph (1) of this subsection shall be made to the person or persons first listed below who is surviving on the date of such individual's death:

“(i) The beneficiary or beneficiaries designated by such individual under the individual's Servicemen's Group Life Insurance policy.

“(ii) The surviving spouse of the individual.

"(iii) The surviving child or children of the individual, in equal shares.

"(iv) The surviving parent or parents of the individual, in equal shares.

"(B) If no such person survives such individual, no payment shall be made under this section.

"(b) The amount of any payment made under this section shall be equal to—

"(1) the amount reduced from the individual's pay under section 1411(b), 1412(c), or 1418(c) of this title, less

"(2) the total of—

"(A) the amount of educational assistance that has been paid to the individual under this chapter before the payment is made under this section; and

"(B) the amount of accrued benefits paid or payable with respect to such individual in connection with this chapter.

"(c) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 1435(b)(1), it shall be considered to be an entitlement earned under this subchapter."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 30 is amended by adding at the end the following new item:

"1417. Death benefit."

38 USC 1417
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of July 1, 1985.

SEC. 102. MONTGOMERY GI BILL ELIGIBILITY FOR INDIVIDUALS DISCHARGED FOR PRESERVICE MEDICAL CONDITIONS OR DUE TO REDUCTIONS IN FORCE.

(a) IN GENERAL.—Section 1411(a)(1) is amended—

(1) in clauses (A)(ii)(I) and (B)(ii)(I), by inserting after "disability" the following: ", for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected,";

(2) in clauses (A)(ii) and (B)(ii), by striking out ", or (II)" and inserting in lieu thereof "; (II)"; and

(3) by inserting before "; or" at the end of clause (A)(ii) and before the semicolon at the end of clause (B)(ii) the following: "; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy".

Uniformed
services.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1)(A) Section 1412(b)(1) is amended to read as follows:

Uniformed
services.

"(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces (i) for a service-connected disability, (ii) for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, (iii) for hardship, (iv) in the case of an individual discharged or released after 20 months of such service, for the convenience of the Government, or (v) involuntarily for the convenience of the Government as a result of a reduction in force, as

determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

“(B) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual—

“(i) who, during the two years of service described in clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section, was discharged or released from active duty in the Armed Forces for a service-connected disability or for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, if the individual was obligated, at the beginning of such two years of service, to serve such four years of service; or

“(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve (I) for a service-connected disability, (II) for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which the Administrator determines is not service connected, (III) for hardship, (IV) in the case of an individual discharged or released after 30 months of such service, for the convenience of the Government, or (V) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.”.

(B) Paragraphs (1)(A)(i) and (1)(B)(i) of section 1412(a) are each amended by inserting “, subject to subsection (b) of this section,” after “Forces”.

(2) Section 1413(a)(2) is amended by inserting “or (III)” after “section 1411(a)(1)(A)(ii)(I)” and after “section 1411(a)(1)(B)(ii)(I)” the first place each appears.

(3) Clause (F) of section 3103A(b)(3) is amended to read as follows:

“(F) to benefits under chapter 30 of this title by reason of—

“(i) a discharge or release from active duty for the convenience of the Government, as described in sections 1411(a)(1)(A)(ii)(II) and 1412(b)(1)(A)(iv) of this title;

“(ii) a discharge or release from active duty for a medical condition which preexisted service on active duty and which the Administrator determines is not service connected, as described in clauses (A)(ii)(I) and (B)(ii)(I) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(ii) of this title; or

“(iii) an involuntary discharge or release from active duty for the convenience of the Government as a result of a reduction in force, as described in clauses (A)(ii)(III) and (B)(ii)(III) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(v) of this title.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect—

(1) as of July 1, 1985, with respect to individuals discharged or released for a medical condition which preexisted service on

38 USC 1411
note.

active duty or in the Selected Reserve and which the Administrator determines is not service connected; and

(2) as of October 1, 1987, with respect to individuals involuntarily discharged or released for the convenience of the Government as a result of a reduction in force.

SEC. 103. OPPORTUNITY FOR MONTGOMERY GI BILL ENROLLMENT FOR CERTAIN ACTIVE-DUTY NONPARTICIPANTS.

(a) **IN GENERAL.**—Subchapter II of chapter 30 is amended by adding at the end the following new section (after the section added by section 101(a) of this Act):

“§ 1418. Opportunity for certain active-duty personnel to withdraw election not to enroll

“(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in this section referred to as the ‘open period’), an individual who—

“(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

“(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

“(3) is serving on active duty during the open period, shall have the opportunity, in accordance with this section and on such form as the Secretary shall prescribe, to withdraw an election made under section 1411(c)(1) or 1412(d)(1) of this title not to receive educational assistance under this chapter.

“(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 1411(c)(1) or 1412(d)(1) of this title and who—

“(1) while serving on active duty during the open period, makes a withdrawal of such an election;

“(2) continues to serve the period of service which, at the beginning of the open period, such individual was obligated to serve;

“(3)(A) serves the obligated period of service described in clause (2) of this subsection;

“(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the Administrator determines is not service connected, or (iii) hardship; or

“(C) before completing such obligated period of service, is (i) discharged or released from active duty for the convenience of the Government after completing not less than 20 months of such period of service, if such period was less than three years, or 30 months, if such period was at least three years, or (ii) involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense;

“(4) before completing such obligated period of service, has completed the requirements of a secondary school diploma (or an equivalency certificate); and

“(5) upon completion of such obligated period of service—

“(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

“(B) continues on active duty; or

“(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service,

is entitled to basic educational assistance under this chapter.

“(c) The basic pay of an individual withdrawing, under subsection (b)(1) of this section, an election under section 1411(c)(1) or 1412(d)(1) of this title shall be reduced by—

“(1) \$1,200; or

“(2) in the case of an individual described in clause (B) or (C) of subsection (b)(3) of this section whose discharge or release from active duty prevents the reduction of the basic pay of such individual by \$1,200, an amount less than \$1,200.

“(d) A withdrawal under subsection (b)(1) of this section is irrevocable.”.

(b) CONFORMING AMENDMENTS.—(1) The second sentence of section 1411(b) and of section 1412(c) are each amended by striking out “subsection” and inserting in lieu thereof “chapter”.

(2) Section 1413 is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

“(c)(1) Subject to section 1795 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 1418 of this title is entitled to 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance).

“(2) Subject to section 1795 of this title, an individual described in clause (B) or (C) of section 1418(b)(3) of this title whose discharge or release from active duty prevents the reduction of the basic pay of such individual by \$1,200 is entitled to the number of months of assistance under this chapter that is equal to the lesser of—

“(A) 36 multiplied by a fraction the numerator of which is the amount by which the basic pay of the individual has been reduced under section 1418(c) and the denominator of which is \$1,200; or

“(B) the number of months the individual has served on continuous active duty after June 30, 1985.”.

(3) Section 1415(b) is amended by inserting “or 1418” after “section 1411”.

(4) Section 1416 is amended by adding at the end the following new subsection:

“(c) A member of the Armed Forces who—

“(1) completes at least two years of service on active duty after June 30, 1985;

“(2) after such service continues on active duty without a break in service; and

“(3) but for section 1418(b)(3)(A) of this title would be entitled to basic educational assistance under this chapter, may receive such assistance for enrollment in an approved program of education while continuing to perform the service described in section 1418(b)(2) of this title.”.

(5) Section 1421 is amended—

(A) in subsection (a) in the matter preceding clause (1), by inserting “or 1418” after “section 1411”; and

(B) in subsection (b) in the matter preceding clause (1), by inserting “or 1418” after “section 1412”.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 30 is amended by adding the following new item (after the item added by section 101(b) of this Act):

“1418. Opportunity for certain active-duty personnel to withdraw election not to enroll.”.

SEC. 104. MONTGOMERY GI BILL SECONDARY SCHOOL DIPLOMA REQUIREMENTS.

(a) ACTIVE DUTY PARTICIPANTS.—Clause (2) of section 1411(a) is amended to read as follows:

“(2) who completed the requirements of a secondary school diploma (or equivalency certificate) not later than—

“(A) the original ending date of the individual’s initial obligated period of active duty in the case of an individual described in clause (1)(A) of this subsection, regardless of whether the individual is discharged or released from active duty on such date; or

“(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection;

except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree; and”.

(b) SELECTED RESERVE PARTICIPANTS.—Section 1412(a)(2) is amended—

(1) by striking out “received” and inserting in lieu thereof “completed the requirements of”; and

(2) by inserting the following before the semicolon: “, except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree”.

SEC. 105. CHOICE OF MONTGOMERY GI BILL BENEFITS FOR CERTAIN RESERVISTS.

Section 1412 is amended by adding at the end the following new subsection:

“(e)(1) An individual described in subclause (I) or (III) of subsection (b)(1)(B)(ii) of this section may elect entitlement to basic educational assistance under section 1411 of this title, based on an initial obligated period of active duty of two years, in lieu of entitlement to assistance under this section.

“(2) An individual who makes the election described in paragraph (1) of this subsection shall, for all purposes of this chapter, be considered entitled to educational assistance under section 1411 of this title and not under this section. Such an election is irrevocable.”.

SEC. 106. REFRESHER, REMEDIAL, AND DEFICIENCY COURSES.

(a) MONTGOMERY GI BILL ACTIVE DUTY PROGRAM.—Subsection (a) of section 1434 is amended—

- (1) by inserting "(1)" before "Except";
- (2) by designating the second sentence as paragraph (2) thereof;
- (3) in paragraph (2) (as so designated), by striking out "those provisions" and inserting in lieu thereof "the provisions of the sections enumerated in paragraph (1) of this subsection"; and
- (4) by adding at the end the following new paragraph:

"(3) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education."

Regulations.

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1641 is amended—

- (1) in subsection (a), by—

- (A) by inserting "(1)" after "(a)"; and

- (B) by adding at the end the following new paragraph:

"(2) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education"; and

Regulations.

- (2) in subsection (b), by striking out "1691(a)(1)" and inserting in lieu thereof "1691(a) (other than clause (1))".

(c) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.—Subsection (a) of section 1733 is amended to read as follows:

"(a)(1) Any eligible person shall be entitled to the benefits provided an eligible veteran (with no dependents) under section 1691 (if pursued in a State) of this title.

"(2) Educational assistance under this chapter for the first five months of full-time pursuit of a program (or the equivalent thereof in part-time educational assistance) consisting of such course or courses shall be provided without charge to entitlement."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 15, 1989.

38 USC 1434
note.

SEC. 107. TUTORIAL ASSISTANCE.

(a) ASSISTANCE UNDER THE MONTGOMERY GI BILL FOR ACTIVE-DUTY PARTICIPANTS.—(1) Subchapter II of chapter 30 is amended by adding at the end the following new section (after the section added by section 103(a) of this Act):

"§ 1419. Tutorial assistance

"(a) An individual entitled to an educational assistance allowance under this chapter shall also be entitled to benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section.

"(b) The amount of such benefits payable under this section may not exceed \$100 per month, for a maximum of twelve months, or until a maximum of \$1,200 is utilized. This amount is in addition to the amount of educational assistance allowance payable to the individual under this chapter.

"(c)(1) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the individual under this section in excess of \$600.

"(2) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of \$600 that is equal to the amount of the monthly educational assistance allowance which the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter."

(2) Section 1435 is amended by adding at the end the following:

"(e) Payments for tutorial assistance benefits under section 1419 of this title shall be made—

"(1) in the case of the first \$600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

"(2) in the case of payments to an individual for such benefits in excess of \$600, from—

"(A) funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits;

"(B) the Department of Defense Education Benefits Fund established under section 2006 of title 10; and

"(C) funds appropriated to the Department of Transportation,

in the same proportion as the Fund described in subclause (B) of this clause and the funds described in subclause (A) or (C) of this clause are used to pay the educational assistance allowance to the individual under this chapter."

(3) The table of sections for subchapter II of chapter 30 is amended by adding the following new item (after the item added by section 103(c) of this Act):

"1419. Tutorial assistance."

(b) POST-VIETNAM ERA EDUCATIONAL ASSISTANCE PROGRAM.—(1) Subchapter III of chapter 32 is amended by inserting after section 1633 the following new section:

"§ 1634. Tutorial assistance

"(a) An individual entitled to benefits under this chapter shall also be entitled to the benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section. Any amount paid to an individual under this section shall be in addition to the amount of other benefits paid under this chapter.

"(b) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of educational assistance paid to the individual under this section in excess of \$600.

"(c) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of \$600 that is equal to the amount of monthly educational assistance the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

"(d) Payments of benefits under this section shall be made—

"(1) in the case of the first \$600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

"(2) in the case of payments to an individual for such benefits in excess of \$600, from the fund from contributions made to the fund by the veteran and by the Secretary of Defense in the same proportion as these contributions are used to pay other educational assistance to the individual under this chapter."

(2) The table of sections for subchapter III of chapter 32 is amended by inserting after the item relating to section 1633 the following new item:

"1634. Tutorial assistance."

(c) INCREASE IN MAXIMUM TUTORIAL ASSISTANCE PAYMENTS.—(1) Section 1692(b) is amended by striking out "\$84" and "\$1,008" and inserting in lieu thereof "\$100" and "\$1,200", respectively.

(2)(A) The heading of section 1692 is amended to read as follows:

"§ 1692. Tutorial assistance".

(B) The item relating to section 1692 in the table of sections at the beginning of chapter 34 is amended to read as follows:

"1692. Tutorial assistance."

SEC. 108. COOPERATIVE TRAINING.

(a) MONTGOMERY GI BILL.—(1) Section 1402(3)(B) is amended—

(A) by inserting "(i)" before "a full-time"; and

(B) by inserting before the period at the end " , and (ii) a cooperative program (as defined in section 1682(a)(2) of this title)".

(2) Section 1432 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such individual under section 1415 and section 1422, if applicable, of this title.

"(2) For each month that an individual is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month."

(b) POST-VIETNAM-ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 1602(2)(B) is amended—

(A) by inserting "(i)" after "includes"; and

(B) by inserting after "of this title" the following: " , and (ii) in the case of an individual who is not serving on active duty, a

cooperative program (as defined in section 1682(a)(2) of this title)".

(2) Section 1631 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly benefit payment to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly benefit otherwise payable to such individual (computed on the basis of the formula provided in subsection (a)(2) of this section).

"(2) For each month that an individual is paid a monthly benefit payment for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate 80 percent of a month."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1989.

SEC. 109. EXTENSION OF DELIMITING PERIODS BY REASON OF ALCOHOL CONDITIONS.

Section 105 is amended by adding at the end the following new subsection:

"(c) For the purposes of any provision relating to the extension of a delimiting period under any education-benefit or rehabilitation program administered by the Veterans' Administration, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct."

SEC. 110. MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

(a) **PAYMENT FOR LESS THAN HALF-TIME PURSUIT OF A PROGRAM OF EDUCATION.**—Section 2131(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new clause:

"(4) an appropriately reduced rate, as determined under regulations which the Administrator of Veterans' Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned."

(b) **TIME OF ELIGIBILITY.**—Section 2132(b) of such title is amended to read as follows:

"(b) Educational assistance may not be provided to a member under this chapter until the member has completed the initial period of active duty for training required of the member."

SEC. 111. TECHNICAL AMENDMENTS.

(a) **TITLE 38 AMENDMENTS.**—Title 38 is amended as follows:

(1) Section 1402(3)(B) is amended by striking out "includes" and inserting in lieu thereof "in the case of an individual who is not serving on active duty, includes".

(2)(A) Section 1411(a)(1)(A)(i)(I) is amended by inserting ", as the individual's initial obligated period of active duty," after "serves".

38 USC 1402
note.

Regulations.

(B) Section 1412(a)(1)(A)(i) is amended by inserting “, as the individual’s initial obligated period of active duty,” after “serves”.

(3) Section 1411 is amended by adding the following new subsection at the end:

“(d)(1) For purposes of this chapter, any period of service described in paragraph (2) of this subsection shall not be considered a part of an individual’s initial obligated period of active duty.

“(2) The period of service referred to in paragraph (1) is any period terminated because of a defective enlistment and induction based on—

“(A) the individual’s being a minor for purposes of service in the Armed Forces;

“(B) an erroneous enlistment or induction; or

“(C) a defective enlistment agreement.”.

(4) Section 1413 is amended—

(A) in subsection (a)(2)—

(i) by striking out “In” and inserting in lieu thereof “Subject to section 1795 of this title and subsection (c) of this section, in”; and

(ii) by striking out “active duty” and all that follows through the period and inserting in lieu thereof “continuous active duty served by such individual after June 30, 1985, as part of the individual’s initial obligated period of active duty in the case of an individual described in section 1411(a)(1)(B)(ii) (I) or (III) of this title, or in the case of an individual described in section 1411(a)(1)(B)(ii) (I) or (III) of this title, after June 30, 1985.”; and

(B) in subsection (b)(1), by striking out “active duty” and all that follows through “title, and” and inserting in lieu thereof “continuous active duty served by such individual after June 30, 1985, as part of the individual’s initial obligated period of active duty in the case of an individual described in section 1412(a)(1)(A) of this title, or in the case of an individual described in section 1412(a)(1)(B) of this title, after June 30, 1985, and”.

(5)(A) Section 1415(a) is amended by striking out “Subject” and all that follows through “except” and inserting in lieu thereof “The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except”.

(B) Section 1422(a) is amended by striking out “Subject” and all that follows through “except” and inserting in lieu thereof “The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except”.

(6) Section 1431(a) is amended by striking out “beginning on” and all that follows through the period and inserting in lieu thereof the following: “beginning on the date of such individual’s last discharge or release from active duty, except that such 10-year period shall begin—

“(1) in the case of an individual who becomes entitled to such assistance under clause (A) or (B) of section 1412(a)(1) of this title, on the later of the date of such individual’s last discharge or release from active duty or the date on which the four-year requirement described in clause (A)(ii) or (B)(ii), respectively, of such section 1412(a)(1) is met; and

"(2) in the case of an individual who becomes entitled to such assistance under section 1411(a)(1)(B), on the later of the date of such individual's last discharge or release from active duty or January 1, 1990."

(7)(A) Section 1432 is amended by adding at the end the following new subsection (after the subsection added by section 108(a)(2) of this Act):

Contracts.

"(e)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual.

"(B) For purposes of this paragraph, the term 'established charge' means the lesser of—

"(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

"(ii) the actual charge to the individual for such course or courses.

"(2) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

"(3) In each case in which the rate of payment to an individual is determined under paragraph (1) of this subsection, the period of entitlement of such individual under this chapter shall be charged at the rate of one month for each payment of educational assistance to the individual that is equal to the amount of monthly educational assistance the individual would otherwise be eligible to receive for full-time pursuit of an institutional course under this chapter."

(B) Section 1434 (as amended by section 106(a) of this Act) is amended—

(i) in subsection (a)(1), by inserting "1786(a)," after "1780(g),";

(ii) by striking out subsection (c); and

(iii) by redesignating subsection (d) as subsection (c).

(8) Section 1432(c)(3) is amended—

(A) by striking out "For" and inserting in lieu thereof "(A) Except as provided in subparagraph (B) of this paragraph, for";

(B) by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(C) by adding at the end the following new subparagraph:

"(B) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection."

(9) Section 1673(d) is amended—

(A) by inserting "or under chapter 106 of title 10" before the period at the end of the first sentence; and

(B) by inserting "or under chapter 106 of title 10" after "of this title" in the third sentence.

(b) CHAPTER 106 AMENDMENTS.—Chapter 106 of title 10, United States Code, is amended as follows:

(1) Section 2131(c)(2) is amended by inserting before the period at the end the following: "(or the equivalent thereof in part-time educational assistance)".

(2) Section 2132(a)(2) is amended—

(A) by striking out “received” and inserting in lieu thereof “completed the requirements of”; and

(B) by inserting before the semicolon the following: “, or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistment or extension”.

(3) Section 2132(c) is amended by adding the following sentence at the end: “At the request of the Administrator of Veterans’ Affairs, the Secretary of Defense shall transmit a notice of entitlement for each such person to the Administrator.”

(4) Section 2132(d) is amended to read as follows:

“(d) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter but shall elect (in such form and manner as the Administrator of Veterans’ Affairs may prescribe) the program to which such service is to be credited.”

(5) Section 2133 is amended—

(A) in subsection (a), by striking out “section” and inserting in lieu thereof “chapter”; and

(B) in subsection (b), by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by adding as paragraph (1) the following new paragraph:

“(b)(1) In the case of a person separated from the Selected Reserve because of a disability which was not the result of the individual’s own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection.”; and

(C) in paragraph (2) of subsection (b), as redesignated by subparagraph (B) of this paragraph, strike out “1431(e)” and insert in lieu thereof “1431(f)”.

(6) Section 2135 is amended—

(A) in subsection (a)(1), by inserting “, and during which the member has received such assistance,” after “chapter”; and

(B) by striking out clause (A) of subsection (b)(1) and inserting in lieu thereof the following:

“(A) the number of months of obligated service the person has remaining under the agreement entered into under section 2131(a) of this title divided by the original number of months of such obligation; and”.

PART B—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 121. COURSE WITHDRAWALS.

(a) **IN GENERAL.**—Section 1780(a)(4) is amended by inserting after “circumstances” the following: “, except that, in the first instance of withdrawal by an eligible veteran or person from a course or courses with respect to which such veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof”.

38 USC 1780
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply so as to require that mitigating circumstances be considered to exist only with respect to withdrawals from a course or courses being pursued with assistance under title 38, United States Code, that occur on or after June 1, 1989.

SEC. 122. EDUCATIONAL ASSISTANCE FOR CERTAIN INCARCERATED VETERANS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.

Section 1631 is amended by adding at the end the following new subsection (after the subsection added by section 108(b)(2) of this Act):

Regulations.

“(e)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed the lesser of (A) such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 1633 of this title. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.

“(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.”

SEC. 123. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 1792(c) is amended by striking out “December 31, 1989” and inserting in lieu thereof “December 31, 1993”.

SEC. 124. REPEAL OF EXPIRED PROGRAM OF ACCELERATED-PAYMENT LOANS.

(a) **REPEAL.**—Sections 1682A, 1686, 1737, and 1738 are repealed.

(b) **CONFORMING AMENDMENTS.**—Section 1798 is amended—

(1) by striking out “or person” each place it appears;

(2) in subsection (a)(1)—

(A) by striking out “and eligible person”; and

(B) by inserting “(if the program of education is pursued in a State)” after “subchapter”;

(3) in subsection (b)—

(A) in paragraph (1), by striking out “or eligible person”; and

(B) in paragraph (3), by striking out “or subchapter II of chapter 35, respectively,”;

(4) in subsection (e)—

(A) in paragraph (2), by striking out “or person's”; and

(B) by amending paragraph (3)(B) to read as follows:

“(B) data regarding the default experience and default rate with respect to loans made under this section.”;

(5) in subsection (f)—

(A) by striking out paragraphs (1) and (3); and

(B) by striking out “(2)”; and

(6) in subsection (g)(2)(A)—

(A) in the first sentence, by striking out “and eligible persons”; and

(B) in the second sentence, by striking out “or eligible person”.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 34 is amended by striking out the items relating to sections 1682A and 1686.

(2) The table of sections at the beginning of chapter 35 is amended by striking out the items relating to sections 1737 and 1738.

(3) The table of sections at the beginning of chapter 36 is amended by striking out the heading relating to subchapter III and inserting in lieu thereof the following:

“SUBCHAPTER III—EDUCATION LOANS”.

(4) Chapter 36 is amended by striking out the heading for subchapter III and inserting in lieu thereof the following:

“SUBCHAPTER III—EDUCATION LOANS”.

TITLE II—REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

SEC. 201. TRAINING AND WORK EXPERIENCE WITHOUT PAY IN STATE AND LOCAL GOVERNMENT AGENCIES.

Section 1515 is amended—

(1) in subsection (a)(1), by inserting “, or of any State or local government agency receiving Federal financial assistance,” after “Administration”.

(2) in subsection (b)—

(A) in paragraph (1), by inserting “at a Federal agency” after “section”; and

(B) by striking out paragraph (3) and inserting in lieu thereof:

“(3) Use of the facilities of a State or local government agency under subsection (a)(1) of this section or use of facilities and services under subsection (a)(4) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

Contracts.

“(4) The Administrator shall prescribe regulations providing for the monitoring of training and work experiences provided under such subsection (a)(1) at State or local government agencies and otherwise ensuring that such training or work experience is in the best interest of the veteran and the Federal Government.”.

Regulations.

SEC. 202. USE OF FOR-PROFIT ORGANIZATIONS FOR EMPLOYMENT ASSISTANCE AND INDEPENDENT LIVING PROGRAMS.

(a) EMPLOYMENT ASSISTANCE.—Section 1517(a)(2)(C) is amended—

(1) by striking out “and” at the end of subclause (iii); and

(2) by inserting before the period at the end “, and (v) any for-profit entity in a case in which the Administrator has deter-

mined that services necessary to provide such assistance are available from such entity and that comparably effective services are not available, or cannot be obtained cost-effectively, from the entities described in subclauses (i) through (iv) of this clause.”.

(b) INDEPENDENT LIVING PROGRAMS.—Section 1520(a) is amended—

(1) in paragraph (1), by striking out “public” and all that follows through “organizations” and inserting in lieu thereof “entities described in paragraph (7) of this subsection”; and

(2) by adding at the end the following new paragraph:

“(7) Entities described in this paragraph are (A) public or non-profit agencies or organizations, and (B) for-profit entities in cases in which the Administrator determines that services comparable in effectiveness to services available from such an entity are not available, or cannot be obtained cost-effectively from, public or nonprofit agencies or through facilities of the Department of Medicine and Surgery.”.

TITLE III—HOME LOAN GUARANTY PROGRAM

SEC. 301. INTEREST RATE REQUIREMENTS FOR VENDEE LOANS.

Section 1833(a) is amended by adding at the end the following new paragraph:

Real property.

“(7) The Administrator shall make a loan to finance the sale of real property described in paragraph (1) of this subsection at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Administrator determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans’ Administration Loan Guaranty Revolving Fund established by section 1824(a) of this title.”.

SEC. 302. CREDITWORTHINESS DETERMINATIONS AND FEES WITH RESPECT TO ASSUMPTIONS OF VENDEE LOANS.

Section 1814 is amended—

(1) in subsection (a)(1), in the matter preceding clause (A)—

(A) by striking out “If” and inserting in lieu thereof “Except as provided in subsection (f) of this section, if”; and

(B) by striking out “guaranteed, insured, or direct housing loan obtained by a veteran” and inserting in lieu thereof “loan guaranteed, insured, or made”; and

(2) by striking out subsection (f) and inserting in lieu thereof the following:

“(f)(1) This section shall apply—

“(A) in the case of loans other than loans to finance the purchase of real property described in section 1833(a)(1) of this title, only to loans for which commitments are made on or after March 1, 1988; and

“(B) in the case of loans to finance the purchase of such property, only to loans which are closed more than 45 days after the date of the enactment of the Veterans’ Benefits and Programs Improvement Act of 1988.

“(2) This section shall not apply to a loan which the Administrator has sold without recourse.”.

SEC. 303. AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND.

Section 1824 is amended by adding at the end the following new subsection:

“(e)(1) Notwithstanding subsection (b) of this section, the Fund shall be available to the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts and subject to paragraph (3) of this subsection, for—

“(A) contracts for the performance of such supplementary services described in paragraph (2) of this subsection for which the Administrator is otherwise authorized to contract; and

“(B) the acquisition of such supplementary equipment described in such paragraph, (not including services or equipment for which the Fund is available under subsection (b) of this section), as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

“(2) The supplementary services and equipment referred to in paragraph (1) of this subsection are services or equipment not performed or available during fiscal year 1988, or services in excess of the level of such services performed during fiscal year 1988, and may include, among other things, the services of—

“(A) appraisers to review appraisal reports and issue certificates of reasonable value;

“(B) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

“(C) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

“(D) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

Real property.

“(E) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certifications;

“(F) contractors to list for sale in local newspapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

Real property.

“(G) contractors to prepare closing documents and review them after closing; and

“(H) contractors to provide automated data processing equipment, supplies, services, and software for carrying out the program administered under this chapter.

“(3) The Administrator may not in any fiscal year obligate more than \$25,000,000 for services or equipment under this subsection.”.

TITLE IV—EMPLOYMENT

SEC. 401. VETERANS PREFERENCE WITHIN LOCAL HIRE OF ALASKA CONSERVATION SYSTEM UNITS.

Section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

“(b) **PREFERENCE ELIGIBLES WITHIN LOCAL HIRE.**—Notwithstanding the provisions of subsection (a), any individual who is eligible to be selected for a position under the provisions of subsection (a) and is a preference eligible as defined in section 2108(3) of title 5, United States Code, shall be given an employment preference, consistent with the preference in the competitive service as defined in section 2102 of such title for which such person is eligible under subchapter I of chapter 33 of such title, in selection to such position.”.

29 USC 1721
note.

SEC. 402. COORDINATION OF INFORMATION AND ASSISTANCE.

(a) **PURPOSE.**—It is the purpose of this section to ensure that veterans who are dislocated workers eligible for assistance under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or are otherwise unemployed receive, to the extent feasible, assistance (including information on vocational guidance or vocational counseling, or information on both vocational guidance or vocational counseling), including information on counseling, needed by such veterans—

- (1) to apply for services and benefits for which they are eligible as veterans, dislocated workers, or unemployed persons;
- (2) to obtain resolution of questions and problems relating to such services and benefit; and
- (3) to initiate any authorized administrative appeals of determinations or other actions relating to such services and benefits.

(b) **MEMORANDUM OF UNDERSTANDING.**—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Labor and the Administrator of Veterans' Affairs shall enter into a memorandum of understanding to carry out the purpose of this section. The memorandum shall include provisions that define the relationships and responsibilities of the Veterans' Administration, the Department of Labor, and State and local agencies with respect to the provision of the following information, forms, and assistance:

- (A) Information on services and benefits referred to in subsection (d).
- (B) All application forms and related forms necessary for individuals to apply for such services and to claim such benefits.
- (C) Assistance in resolving questions and problems relating to receipt of such services and benefits.
- (D) Assistance in contacting other Federal Government offices and State offices where such services or benefits are provided or administered.

(2) The memorandum of understanding entered into pursuant to paragraph (1) shall include a provision for the periodic evaluation, by the Secretary of Labor and the Administrator of Veterans' Affairs, of the implementation of their respective responsibilities under such memorandum.

(c) **COORDINATION OF DEPARTMENT OF LABOR ACTIVITIES.**—The Assistant Secretary of Labor for Veterans' Employment and Training, in consultation with the office designated or created under section 322(b) of the Job Training Partnership Act, shall, except as the Secretary of Labor may otherwise direct, coordinate the activities of the components of the Department of Labor performing the responsibilities of the Secretary of Labor under this section.

(d) **COVERED SERVICES AND BENEFITS.**—This section applies with respect to the following services and benefits:

(1) **Employment assistance under—**

(A) part C of title IV of the Job Training Partnership Act (96 Stat. 1380; 29 U.S.C. 1721 et seq.); and

(B) the Veterans' Job Training Act (97 Stat. 443; 29 U.S.C. 1721 note).

(2) **Employment and training assistance for dislocated workers under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.).**

(3) **Employment assistance and unemployment compensation under the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 (29 U.S.C. 2271 et seq.) and under any other program administered by the Employment and Training Administration of the Department of Labor.**

(4) **Educational assistance under—**

(A) the Adult Education Act (20 U.S.C. 1201 et seq.); and

(B) chapters 30, 31, 32, 34, and 35 of title 38, United States Code, and chapter 106 of title 10, United States Code.

(5) **Certification of a veteran as a member of a targeted group eligible for the targeted jobs credit determined under section 51 of the Internal Revenue Code of 1986.**

(e) **DEFINITION.**—In this section, the term “veteran” has the meaning given such term in section 101(2) of title 38, United States Code.

TITLE V—EXTENSIONS OF CERTAIN AUTHORITIES

SEC. 501. CONTINUED OPERATION OF VETERANS' ADMINISTRATION REGIONAL OFFICE IN THE PHILIPPINES.

(a) **THREE-YEAR EXTENSION.**—Section 230(b) is amended by striking out “September 30, 1988” and inserting in lieu thereof “September 30, 1991”.

(b) **RATIFICATION FOR LAPSED PERIOD.**—Any action by the Administrator of Veterans' Affairs in providing, during the period beginning on October 1, 1988, and ending on the date of the enactment of this Act, for a Veterans' Administration Regional Office in the Republic of the Philippines under section 230 of title 38, United States Code, is hereby ratified with respect to that period.

38 USC 230 note.

SEC. 502. ALCOHOL AND DRUG TREATMENT PROGRAM.

(a) **THREE-YEAR EXTENSION.**—(1) Subsection (e) of section 620A is amended by striking out “September 30, 1988” and inserting in lieu thereof “September 30, 1991”.

(2) Any action by the Administrator of Veterans' Affairs in providing, during the period beginning on October 1, 1988, and ending on the date of the enactment of this Act, for care and treatment and rehabilitative services under section 620A of title 38, United States Code, is hereby ratified with respect to that period.

38 USC 620A note.

(b) **CLINICAL EVALUATION AND REPORTS.**—Subsection (f) of such section is amended to read as follows:

“(f)(1) During the period before October 1, 1997, the Administrator shall conduct an ongoing clinical evaluation in order to determine the long-term results of drug and alcohol abuse treatment furnished to veterans in contract residential treatment facilities under this section.

“(2) The evaluation shall include an assessment of the following:

“(A) The long-term results of treatment referred to in paragraph (1) of this subsection on drug and alcohol use by veterans who may have received such treatment.

“(B) The need for hospitalization of such veterans for drug and alcohol abuse after completion of the residential treatment.

“(C) The employment status and income of such veterans.

“(D) The extent of any criminal activity of such veterans.

“(E) Whether certain models and methods of residential treatment for drug and alcohol abuse are more successful for veterans with specific abuses, specific levels of resources available to them, and specific needs than are other models and methods.

“(3) To the extent feasible, the Administrator shall select for consideration in the evaluation veterans whose treatment for drug and alcohol abuse in contract residential treatment facilities under such section represents a variety of models and methods of residential drug and alcohol abuse treatment.

“(4) The Administrator shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives the following reports on the evaluation under this subsection:

“(A) Not later than February 1, 1993, an interim report containing information obtained during the first four years of the evaluation and any conclusions that the Administrator has drawn on the basis of that information.

“(B) Not later than March 31, 1998, a final report containing information obtained during the evaluation and the determinations and conclusions of the Administrator based on that information.”.

Approved November 18, 1988.

LEGISLATIVE HISTORY—S. 2049:

SENATE REPORTS: No. 100-323 (Comm. on Veterans’ Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Apr. 28, considered and passed Senate.

Oct. 12, considered and passed House, amended.

Oct. 20, Senate concurred in House amendments.