

Public Law 102-127
102d Congress

An Act

To amend title 10, United States Code, and title 38, United States Code, to improve the educational assistance benefits for members of the reserve components of the Armed Forces who served on active duty during the Persian Gulf War, to improve and clarify the eligibility of certain veterans for employment and training assistance, and for other purposes.

Oct. 10, 1991

[S. 868]

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans’ Educational Assistance Amendments of 1991”.

Veterans’
Educational
Assistance
Amendments
of 1991.
38 USC 101
note.

SEC. 2. RESTORATION OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE.

(a) CHAPTER 30 PROGRAM.—Section 3013 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(f)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of an educational assistance allowance described in paragraph (2) shall not—

“(A) be charged against any entitlement of any individual under this chapter; or

“(B) be counted toward the aggregate period for which section 3695 of this title limits an individual’s receipt of assistance.

“(2) Subject to paragraph (3), the payment of the educational assistance allowance referred to in paragraph (1) is the payment of such an allowance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

“(A) in the case of a person not serving on active duty, had to discontinue such course pursuit as a result of being ordered, in connection with the Persian Gulf War, to serve on active duty under section 672 (a), (d), or (g), 673, 673b, or 688 of title 10; or

“(B) in the case of a person serving on active duty, had to discontinue such course pursuit as a result of being ordered, in connection with such War, to a new duty location or assignment or to perform an increased amount of work; and

“(C) failed to receive credit or lost training time toward completion of the individual’s approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A) or (B), his or her course pursuit.

“(3) The period for which, by reason of this subsection, an educational assistance allowance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses for which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(C) of this subsection.”

(b) CHAPTER 32 PROGRAM.—(1) Section 3231(a) of such title is amended by adding at the end the following new paragraph:

“(5)(A) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph—

“(i) shall not be charged against the entitlement of any eligible veteran under this chapter; and

“(ii) shall not be counted toward the aggregate period for which section 3695 of this title limits an individual’s receipt of assistance.

“(B) The payment of an educational assistance allowance referred to in subparagraph (A) of this paragraph is any payment of a monthly benefit under this chapter to an eligible veteran for pursuit of a course or courses under this chapter if the Secretary finds that the eligible veteran—

“(i) in the case of a person not serving on active duty, had to discontinue such course pursuit as a result of being ordered, in connection with the Persian Gulf War, to serve on active duty under section 672 (a), (d), or (g), 673, 673b, or 688 of title 10; or

“(ii) in the case of a person serving on active duty, had to discontinue such course pursuit as a result of being ordered, in connection with such War, to a new duty location or assignment or to perform an increased amount of work; and

“(iii) failed to receive credit or training time toward completion of the individual’s approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i) or (ii) of this subparagraph, his or her course pursuit.

“(C) The period for which, by reason of this subsection, an educational assistance allowance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses for which the individual failed to receive credit or with respect to which the individual lost training time, as determined under subparagraph (B)(iii) of this paragraph.

“(D) The amount in the fund for each eligible veteran who received a payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall be restored to the amount that would have been in the fund for the veteran if the payment had not been made. For purposes of carrying out the previous sentence, the Secretary of Defense shall deposit into the fund, on behalf of each such veteran, an amount equal to the entire amount of the payment made to the veteran.

“(E) In the case of a veteran who discontinues pursuit of a course or courses as described in subparagraph (B) of this paragraph, the formula for ascertaining the amount of the monthly payment to which the veteran is entitled in paragraph (2) of this subsection shall be implemented as if—

“(i) the payment made to the fund by the Secretary of Defense under subparagraph (D) of this paragraph, and

“(ii) any payment for a course or courses described in subparagraph (B) of this paragraph that was paid out of the fund, had not been made or paid.”

(2) Section 3231(a)(2) of such title is amended by inserting “in paragraph (5)(E) of this subsection and” after “Except as provided”.

(c) CHAPTER 35 PROGRAM.—Section 3511(a) of such title is amended—

(1) by striking out “Each” and inserting in lieu thereof “(1) Each”; and

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

“(2)(A) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall not—

“(i) be charged against the entitlement of any individual under this chapter; or

“(ii) be counted toward the aggregate period for which section 3695 of this title limits an individual's receipt of assistance.

“(B) The payment of the educational assistance allowance referred to in subparagraph (A) of this paragraph is the payment of such an allowance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

“(i) had to discontinue such course pursuit as a result of being ordered, in connection with the Persian Gulf War, to serve on active duty under section 672 (a), (d), or (g), 673, 673b, or 688 of title 10; and

“(ii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i) of this subparagraph, his or her course pursuit.

“(C) The period for which, by reason of this subsection, an educational assistance allowance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses for which the individual failed to receive credit or with respect to which the individual lost training time, as determined under subparagraph (B)(ii) of this paragraph.”

(d) **SELECTED RESERVE PROGRAM.**—Section 2131(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(3)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall not—

“(i) be charged against the entitlement of any individual under this chapter; or

“(ii) be counted toward the aggregate period for which section 3695 of title 38 limits an individual's receipt of assistance.

“(B) The payment of the educational assistance allowance referred to in subparagraph (A) of this paragraph is the payment of such an allowance to the individual for pursuit of a course or courses under this chapter if the Secretary of Veterans Affairs finds that the individual—

“(i) had to discontinue such course pursuit as a result of being ordered, in connection with the Persian Gulf War, to serve on active duty under section 672 (a), (d), or (g), 673, or 673b of this title; and

“(ii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i) of this subparagraph, his or her course pursuit.

“(C) The period for which, by reason of this subsection, an educational assistance allowance is not charged against entitlement or counted toward the applicable aggregate period under section 3695

of title 38 shall not exceed the portion of the period of enrollment in the course or courses for which the individual failed to receive credit or with respect to which the individual lost training time, as determined under subparagraph (B)(ii) of this paragraph.”.

SEC. 3. DELIMITING DATE.

Section 2133(b) of title 10, United States Code, is amended by adding at the end the following:

“(4)(A) In the case of a member of the Selected Reserve of the Ready Reserve who, during the Persian Gulf War, serves on active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of this title—

“(i) the period of such active duty service plus four months shall not be considered in determining the expiration date applicable to such member under subsection (a); and

“(ii) the member may not be considered to have been separated from the Selected Reserve for the purposes of clause (2) of such subsection by reason of the commencement of such active duty service.

“(B) For the purposes of this paragraph, the term ‘Persian Gulf War’ shall have the meaning given such term in section 101(33) of title 38.”.

SEC. 4. CLARIFICATION OF ELIGIBILITY FOR EMPLOYMENT AND TRAINING ASSISTANCE.

Section 4214(b)(2)(A)(i) of title 38, United States Code, is amended by striking out “has a service-connected disability” and inserting in lieu thereof “is entitled to disability compensation under the laws administered by the Secretary or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.”.

SEC. 5. ELIGIBILITY OF MEMBERS OF A RESERVE COMPONENT FOR EMPLOYMENT AND TRAINING ASSISTANCE.

Section 4211(4) of title 38, United States Code, is amended to read as follows:

“(4) The term ‘eligible veteran’ means a person who—

“(A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge;

“(B) was discharged or released from active duty because of a service-connected disability; or

“(C) as a member of a reserve component under an order to active duty pursuant to section 672 (a), (d), or (g), 673, or 673b of title 10, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge.”.

SEC. 6. IMPROVEMENT IN PAYMENT OF EDUCATIONAL ASSISTANCE FOR RESERVISTS CALLED TO ACTIVE DUTY.

(a) IN GENERAL.—Clause (3) of section 3680(a) of title 38, United States Code, is amended to read as follows—

“(3) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless—

“(A) the eligible veteran or person withdraws because he or she is ordered to active duty; or

“(B) the Secretary finds there are mitigating circumstances, except that, in the first instance of withdrawal (without regard to withdrawals described in subclause (A) of this clause) by the eligible veteran or person from a course or courses with respect to which the 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; or”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as of August 1, 1990. 38 USC 3680 note.

Approved October 10, 1991.

LEGISLATIVE HISTORY—S. 868:

SENATE REPORTS: No. 102-124 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 137 (1991):
Aug. 2, considered and passed Senate.
Sept. 16, considered and passed House.