

104TH CONGRESS
2^D SESSION

H. R. 3674

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To amend title 38, United States Code, to clarify the causal relationship required between a veteran's service-connected disability and employment handicap for purposes of determining eligibility for training and rehabilitation assistance, to transfer certain educational assistance entitlements from the Post-Vietnam Era Educational Assistance Program to the Montgomery GI Bill, and for other purposes.

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ance Program to the Montgomery GI Bill, 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; REFERENCES TO TITLE 38,**
4 **UNITED STATES CODE.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Veterans’ Education and Compensation Benefits Amend-
7 ments of 1996”.

8 (b) REFERENCES.—Except as otherwise expressly
9 provided, whenever in this Act an amendment is expressed
10 in terms of an amendment to a section or other provision,
11 the reference shall be considered to be made to a section
12 or other provision of title 38, United States Code.

13 **TITLE I—VETERANS’ EDUCATION
14 PROGRAMS**

15 **SEC. 101. EMPLOYMENT HANDICAP FOR WHICH AN INDIVI-**
16 **VIDUAL MAY RECEIVE TRAINING AND REHA-**
17 **BILITATION ASSISTANCE.**

18 (a) DEFINITIONS.—Section 3101 is amended—
19 (1) in paragraph (1), by inserting “, resulting
20 in substantial part from a disability described in sec-
21 tion 3102(1)(A) of this title,” after “impairment”;
22 (2) in paragraph (6), by inserting “authorized
23 under section 3120 of this title” after “assistance”;
24 and

1 (3) in paragraph (7), by inserting “, resulting
2 in substantial part from a service-connected disabil-
3 ity rated at 10 percent or more,” after “impair-
4 ment”.

5 (b) BASIC ENTITLEMENT.—Section 3102 is amend-
6 ed—

15 (3) by amending paragraph (2)(B) to read as
16 follows:

17 “(B) is determined by the Secretary to be
18 in need of rehabilitation because of a serious
19 employment handicap.”.

20 (c) PERIODS OF ELIGIBILITY.—Section 3103 is
21 amended—

1 (2) in subsection (c)—

2 (A) in the matter preceding paragraph (1),
3 by striking out “particular” and inserting in
4 lieu thereof “current”; and

5 (B) in paragraph (2), by striking out “vet-
6 eran’s employment” and inserting in lieu there-
7 of “veteran’s current employment”; and

12 (d) SCOPE OF SERVICES AND ASSISTANCE.—Section
13 3104 is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1)—

16 (i) by striking out “such veteran’s dis-
17 ability or disabilities cause” and inserting
18 in lieu thereof “the veteran has an employ-
19 ment handicap or”; and

20 (ii) by inserting “reasonably” after
21 “goal is”;

22 (B) in paragraph (7)(A)—

23 (i) by striking out “(i)”; and

24 (ii) by striking out “, and (ii)” and all
25 that follows through “such Act”; and

6 (2) by striking out subsection (b) and redesign-
7 nating subsection (c) as subsection (b).

8 (e) DURATION OF REHABILITATION PROGRAMS.—

9 Paragraph (1) of section 3105(c) is amended by striking
10 out “veteran’s employment” and inserting in lieu thereof
11 “veteran’s current employment”.

12 (f) INITIAL AND EXTENDED EVALUATIONS; DETER-
13 MINATIONS REGARDING SERIOUS EMPLOYMENT HANDI-
14 CAP.—(1) Section 3106 is amended—

15 (A) in subsection (a), by striking out “described
16 in clause (i) or (ii) of section 3102(1)(A) of this
17 title” and inserting in lieu thereof “rated at 10 per-
18 cent or more”;

19 (B) in subsection (b), by striking out “counsel-
20 ing in accordance with”;

21 (C) in subsection (c), by striking out “with ex-
22 tended” and inserting in lieu thereof “with an ex-
23 tended”; and

12 (2) Chapter 31 is amended—

13 (A) in section 3107(c)(2), by striking out
14 “3106(e)” and inserting in lieu thereof “3106(f)”;

15 (B) in section 3109, by striking out "3106(d)"
16 and inserting in lieu thereof "3106(e)";

17 (C) in section 3118(c), by striking out
18 "3106(e)" and inserting in lieu thereof "3106(f)";
19 and

20 (D) in section 3120(b), by striking out
21 "3106(d)" and inserting in lieu thereof "3106(d) or
22 (e)".

23 (g) ALLOWANCES.—Section 3108 is amended—

24 (1) in subsection (a)(2), by striking out “follow-
25 ing the conclusion of such pursuit” and inserting in

1 lieu thereof “while satisfactorily following a program
2 of employment services provided under section
3 3104(a)(5) of this title”; and

4 (2) in subsection (f)(1)—

5 (A) in subparagraph (A)—

6 (i) by inserting “eligible for and”
7 after “veteran is”;

8 (ii) by striking out “chapter 30 or
9 34” and inserting in lieu thereof “chapter
10 30”; and

11 (iii) by striking out “either chapter 30
12 or chapter 34” and inserting in lieu there-
13 of “chapter 30”; and

14 (B) in subparagraph (B), by striking out
15 “chapter 30 or 34” and inserting in lieu thereof
16 “chapter 30”.

17 (h) EMPLOYMENT ASSISTANCE.—Paragraph (1) of
18 section 3117(a) is amended by inserting “rated at 10 per-
19 cent or more” after “disability”.

20 (i) PROGRAM OF INDEPENDENT LIVING SERVICES
21 AND ASSISTANCE.—Section 3120 is amended—

22 (1) in subsection (b), by striking out “service-
23 connected disability described in section 3102(1)(A)”
24 and inserting in lieu thereof “serious employment
25 handicap resulting in substantial part from a serv-

1 ice-connected disability described in section
2 3102(1)(A)(i)”; and

3 (2) in subsection (d), by striking out “and (b)”.

4 (j) **EFFECTIVE DATE.**—(1) Except as provided in
5 paragraph (2), the amendments made by this section shall
6 take effect on the date of the enactment of this Act.

7 (2) The amendments made by subsection (a) (other
8 than paragraph (2)), subsection (d) (other than subpara-
9 graphs (A) and (B) of paragraph (1)), and subsection (i)
10 shall only apply with respect to claims of eligibility or enti-
11 lement to services and assistance (including claims for ex-
12 tension of such services and assistance) under chapter 31
13 of title 38, United States Code, received by the Secretary
14 on or after the date of the enactment of this Act, including
15 those claims based on original applications, and applica-
16 tions seeking to reopen, revise, reconsider, or otherwise ad-
17 judicate or readjudicate on any basis claims for services
18 and assistance under such chapter.

19 **SEC. 102. INCREASE IN BASIC MONTGOMERY GI BILL**

20 **RATES.**

21 (a) **IN GENERAL.**—Section 3015 is amended—

22 (1) in subsection (a)(1), by striking out “\$400”
23 and inserting in lieu thereof “\$421.62”; and

24 (2) in subsection (b)(1), by striking out “\$325”
25 and inserting in lieu thereof “\$343.51”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect on October 1, 1996.

3 **SEC. 103. ENROLLMENT OF CERTAIN VEAP PARTICIPANTS**

4 **IN MONTGOMERY GI BILL.**

5 (a) IN GENERAL.—Subchapter II of chapter 30 is
6 amended by inserting after section 3018B the following
7 new section:

8 **“§ 3018C. Opportunity for certain VEAP participants**
9 **to enroll**

10 “(a) Notwithstanding any other provision of law, an
11 individual who—

12 “(1) is a participant on the date of the enact-
13 ment of the Veterans’ Education and Compensation
14 Benefits Amendments of 1996 in the educational
15 benefits program provided by chapter 32;

16 “(2) is serving on active duty (excluding the pe-
17 riods referred to in section 3202(1)(C)) on such
18 date;

19 “(3) before applying for benefits under this sec-
20 tion, has completed the requirements of a secondary
21 school diploma (or equivalency certificate) or has
22 successfully completed the equivalent of 12 semester
23 hours in a program of education leading to a stand-
24 ard college degree;

1 “(4) if discharged or released from active duty
2 during the 180-day period specified in paragraph
3 (5), is discharged or released therefrom with an hon-
4 orable discharge; and

5 “(5) before 180 days after the date of the en-
6 actment of the Veterans’ Education and Compensa-
7 tion Benefits Amendments of 1996, makes an irrev-
8 ocable election to receive benefits under this section
9 in lieu of benefits under chapter 32 of this title, pur-
10 suant to procedures which the Secretary of each
11 military department shall provide in accordance with
12 regulations prescribed by the Secretary of Defense
13 for the purpose of carrying out this section or which
14 the Secretary of Transportation shall provide for
15 such purpose with respect to the Coast Guard when
16 it is not operating as a service in the Navy;
17 may elect to become entitled to basic educational assist-
18 ance under this chapter.

19 “(b) With respect to an individual who makes an elec-
20 tion under subsection (a) to become entitled to basic edu-
21 cation assistance under this chapter—

22 “(1) the basic pay of the individual shall be re-
23 duced (in a manner determined by the Secretary of
24 Defense) until the total amount by which such basic
25 pay is reduced is \$1,200; or

1 “(2) to the extent that basic pay is not so re-
2 duced before the individual’s discharge or release
3 from active duty as specified in subsection (a)(4) of
4 this section, the Secretary shall collect from the indi-
5 vidual an amount equal to the difference between
6 \$1,200 and the total amount of reductions under
7 paragraph (1), which shall be paid into the Treasury
8 of the United States as miscellaneous receipts.

9 “(c)(1) Except as provided in paragraph (3) of this
10 subsection, an individual who is enrolled in the educational
11 benefits program provided by chapter 32 of this title and
12 who makes the election described in subsection (a)(5) of
13 this section shall be disenrolled from such chapter 32 pro-
14 gram as of the date of such election.

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

17 “(A) to the individual, as provided in section
18 3223(b) of this title and subject to subsection (b)(2)
19 of this section, the unused contributions made by the
20 individual to the Post-Vietnam Era Veterans Edu-
21 cation Account established pursuant to section
22 3222(a) of this title; and

23 “(B) to the Secretary of Defense the unused
24 contributions (other than contributions made under

1 section 3222(c) of this title) made by such Secretary
2 to the Account on behalf of such individual.

3 “(3) Any contribution made by the Secretary of De-
4 fense to the Post-Vietnam Era Veterans Education Ac-
5 count pursuant to subsection (c) of section 3222 of this
6 title on behalf of any individual referred to in paragraph
7 (1) of this subsection shall remain in such account to
8 make payments of benefits to such individual under sec-
9 tion 3015(f) of this title.

10 “(d) The procedures provided in regulations referred
11 to in subsection (a) shall provide for notice of the require-
12 ments of subparagraphs (B), (C), and (D) of section
13 3011(a)(3) and of subparagraph (A) of section 3012(a)(3)
14 of this title. Receipt of such notice shall be acknowledged
15 in writing.”.

16 (b) CONFORMING AMENDMENTS.—(1) The table of
17 sections at the beginning of chapter 30 is amended by in-
18 serting after the item relating to section 3018B the follow-
19 ing new item:

“3018C. Opportunity for certain VEAP participants to enroll.”.

20 (2) Subsection (d) of section 3013 is amended by
21 striking out “or 3018B” and inserting in lieu thereof “,
22 3018B, or 3018C”.

23 (3) Subsection (f) of section 3015 is amended by in-
24 serting “, 3018B, or 3018C” after “section 3018A”.

1 (4) Paragraph (3) of section 3035(b) is amended by
2 striking out “or 3018B” in the matter preceding subpara-
3 graph (A) and inserting in lieu thereof “, 3018B, or
4 3018C”.

5 (c) TRANSFER OF EDUCATIONAL ASSISTANCE
6 FUNDS.—(1) Subparagraph (B) of section 3232(b)(2) is
7 amended—

8 (A) by striking out “, for the purposes of sec-
9 tion 1322(a) of title 31,”; and

10 (B) by striking out “as provided in such sec-
11 tion” and inserting in lieu thereof “to the Secretary
12 for payments for entitlement earned under sub-
13 chapter II of chapter 30”.

14 (2) Paragraph (1) of section 3035(b) of such title is
15 amended by inserting before the period at the end the fol-
16 lowing: “and from transfers from the Post-Vietnam Era
17 Veterans Education Account pursuant to section
18 3232(b)(2)(B) of this title”.

19 (3) Subsection (a) of section 1322 of title 31, United
20 States Code, is amended by striking out “(82)” and in-
21 serting in lieu thereof “(81)”.

1 **SEC. 104. MONTGOMERY GI BILL ELIGIBILITY FOR CERTAIN**2 **ACTIVE DUTY MEMBERS OF ARMY AND AIR**3 **NATIONAL GUARD.**

4 (a) IN GENERAL.—Paragraph (7) of section 3002 is
5 amended by striking out “November 29, 1989” and insert-
6 ing in lieu thereof “June 30, 1985”.

7 (b) APPLICATION.—(1) An individual may only be-
8 come eligible for benefits under chapter 30 of title 38,
9 United States Code, as a result of the amendment made
10 by subsection (a) by making an election to become entitled
11 to basic educational assistance under such chapter. The
12 election may only be made within the nine-month period
13 beginning on the date of the enactment of this Act in the
14 manner required by the Secretary of Defense.

15 (2) In the case of any individual making an election
16 under paragraph (1)—

17 (A) the basic pay of an individual who, while a
18 member of the Armed Forces, makes an election
19 under paragraph (1) shall be reduced (in a manner
20 determined by the Secretary of Defense) until the
21 total amount by which such basic pay is reduced is
22 \$1,200; or

23 (B) to the extent that basic pay is not so re-
24 duced before the individual’s discharge or release
25 from active duty, the Secretary of Defense shall col-
26 lect from an individual who makes such an election

1 an amount equal to the difference between \$1,200
2 and the total amount of reductions under subpara-
3 graph (A), which amount shall be paid into the
4 Treasury of the United States as miscellaneous re-
5 ceipts.

6 (3) In the case of any individual making an election
7 under paragraph (1), the 10-year period referred to in sec-
8 tion 3031 of such title shall begin on the later of—

11 (B) the date the election under paragraph (1)
12 of this subsection becomes effective.

13 SEC. 105. PERMANENT AUTHORITY FOR ALTERNATIVE
14 TEACHER CERTIFICATION PROGRAMS.

15 Subsection (c) of section 3452 is amended by striking
16 out “For the period ending on September 30, 1996, such”
17 and inserting in lieu thereof “Such”.

18 **TITLE II—VETERANS' BENEFITS** 19 **PROGRAMS**

20 SEC. 201. EFFECTIVE DATE OF DISCONTINUANCE OF CER-
21 TAIN VETERANS' BENEFITS BY REASON OF
22 DEATH OF RECIPIENT.

23 (a) DATE OF DISCONTINUANCE OF BENEFITS.—Sec-
24 tion 5112(b)(1) of title 38, United States Code, is amend-
25 ed to read as follows:

1 “(1) by reason of—

2 “(A) the marriage or remarriage of the
3 payee, shall be the last day of the month before
4 the month during which such marriage or re-
5 marriage occurs; and

6 “(B) the death of the payee, shall be (i)
7 the last day of the month before the month dur-
8 ing which the death occurs, or (ii) in the case
9 of a payee who was in receipt of compensation
10 or pension and who has a surviving spouse who
11 is not entitled to have benefits computed under
12 section 5310 of this title for the month in which
13 the death occurs, the date on which the death
14 occurs;”.

15 (b) PAYMENT OF BENEFIT FOR FINAL MONTH.—

16 Section 5112 of such title is further amended by adding
17 at the end the following new subsection:

18 “(d) In the case of discontinuance of payment of com-
19 pensation or pension covered by subsection (b)(1)(B)(ii),
20 the payment for the final calendar month (or any portion
21 thereof) for which such benefit is payable shall (notwith-
22 standing any other provision of law) be payable to the sur-
23 viving spouse.”.

1 (c) COMMENCEMENT DATE FOR DIC.—Section
2 5110(d) of such title is amended by adding at the end
3 the following new paragraph:

4 “(3) Notwithstanding paragraph (1), the effective
5 date of an award of dependency and indemnity compensa-
6 tion for which application is received within one year from
7 the date of death shall, in the case of a surviving spouse
8 who is not entitled to have benefits computed under sec-
9 tion 5310 of this title for the month in which the death
10 occurs, be the day following the date on which the death
11 occurred.”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply with respect to the death of com-
14 pensation and pension recipients occurring after October
15 1, 1997.

16 **SEC. 202. INCREASE IN PERIOD FOR WHICH ACCRUED BEN-
17 EFITS PAYABLE.**

18 Subsection (a) of section 5121 is amended by striking
19 out “one year” in the matter preceding paragraph (1) and
20 inserting in lieu thereof “two years”.

21 **SEC. 203. INCREASE IN AUTOMOBILE ALLOWANCE.**

22 (a) IN GENERAL.—Subsection (a) of section 3902 is
23 amended by striking out “\$5,500” and inserting in lieu
24 thereof “\$6,500”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply with respect to purchases of
3 automobiles and other conveyances on or after the date
4 of the enactment of this Act.

5 **SECTION 204. LEGAL ASSISTANCE FOR FINANCIALLY**
6 **NEEDY VETERANS IN CONNECTION WITH**
7 **COURT OF VETERANS APPEALS PROCEED-**
8 **INGS.**

9 (a) IN GENERAL.—Subchapter III of chapter 72 is
10 amended by adding at the end the following new section:
11 **“§ 7287. Legal assistance for financially needy veter-**

12 **ans in proceedings before the Court**

13 “(a)(1) The Court of Veterans Appeals shall provide
14 funds in order to provide financial assistance by grant or
15 contract to legal assistance entities for purposes of pro-
16 grams described in subsection (b). Such funds shall be
17 provided from amounts transferred to the Court under
18 subsection (c)(1) or specifically appropriated to the Court
19 for the purposes of this section.

20 “(2) The Court shall seek to provide funds for such
21 purpose through a nonprofit organization selected by it.

22 If the Court determines that there exists no nonprofit or-
23 ganization that would be an appropriate recipient of funds
24 under this section for the purposes referred to in para-
25 graph (1) and that it is consistent with the mission of the

1 Court, the Court shall provide financial assistance, by
2 grant or contract, directly to legal assistance entities for
3 purposes of permitting such entities to carry out programs
4 described in subsection (b).

5 “(b)(1) A program referred to in subsection (a) is any
6 program under which a legal assistance entity uses finan-
7 cial assistance under this section to provide assistance or
8 carry out activities (including assistance, services, or ac-
9 tivities referred to in paragraph (3)) in order to ensure
10 that individuals described in paragraph (2) receive, with-
11 out charge, legal assistance in connection with decisions
12 to which section 7252(a) of this title may apply or with
13 other proceedings before the Court.

14 “(2) An individual referred to in paragraph (1) is any
15 veteran or other person who—

16 “(A) is or seeks to be a party to an action be-
17 fore the Court; and

18 “(B) cannot, as determined by the Court or the
19 entity concerned, afford the costs of legal advice and
20 representation in connection with that action.

21 “(3) Assistance, services, and activities under a pro-
22 gram described in this subsection may include the follow-
23 ing for individuals described in paragraph (2) in connec-
24 tion with proceedings before the Court:

1 “(A) Financial assistance to defray the ex-
2 penses of legal advice or representation (other than
3 payment of attorney fees) by attorneys, clinical law
4 programs of law schools, and veterans service orga-
5 nizations.

6 “(B) Case screening and referral services for
7 purposes of referring cases to pro bono attorneys
8 and such programs and organizations.

9 “(C) Education and training of attorneys and
10 other legal personnel who may appear before the
11 Court by attorneys and such programs and organiza-
12 tions.

13 “(D) Encouragement and facilitation of the pro
14 bono representation by attorneys and such programs
15 and organizations.

16 “(4) A legal assistance entity that receives financial
17 assistance described in subsection (a) to carry out a pro-
18 gram under this subsection shall make such contributions
19 (including in-kind contributions) to the program as the
20 nonprofit organization or the Court, as the case may be,
21 shall specify when providing the assistance.

22 “(5) A legal assistance entity that receives financial
23 assistance under subsection (a) to carry out a program
24 described in this subsection may not require or request
25 the payment of a charge or fee in connection with the pro-

1 gram by or on behalf of any individual described in para-
2 graph (2).

3 “(c)(1)(A) From amounts appropriated to the De-
4 partment for each of fiscal years 1997 through 2003 for
5 the payment of compensation and pension, the Secretary
6 shall transfer to the Court the amount specified under
7 subparagraph (B) for each such fiscal year, and such
8 funds shall be available for use by the Court only in ac-
9 cordance with this section.

10 “(B) The amount to be transferred to the Court
11 under subparagraph (A) for any fiscal year is \$700,000
12 for fiscal year 1997 and the same amount for each suc-
13 ceeding fiscal year through fiscal year 2003 increased by
14 3 percent per year, reduced for any such fiscal year by
15 such amount as may otherwise be specifically appropriated
16 for the purposes of the program under this section for that
17 fiscal year.

18 “(2) The Court shall provide funds available to it for
19 the purposes of the program under this section to a non-
20 profit organization described in subsection (a)(1). Such
21 funds shall be provided to such organization in advance
22 or by way of reimbursement, to cover some or all of the
23 administrative costs of the organization in providing finan-
24 cial assistance to legal assistance entities carrying out pro-
25 grams described in subsection (b).

1 “(3) Funds shall be provided under this subsection
2 pursuant to a written agreement entered into by the Court
3 and the organization receiving the funds.

4 “(d) A nonprofit organization may—

5 “(1) accept funds, in advance or by way of re-
6 imbursement, from the Court under subsection
7 (a)(1) in order to provide the financial assistance re-
8 ferred to in that subsection;

9 “(2) provide financial assistance by grant or
10 contract to legal assistance entities under this sec-
11 tion for purposes of permitting such entities to carry
12 out programs described in subsection (b);

13 “(3) administer any such grant or contract; and

14 “(4) accept funds, in advance or by way of re-
15 imbursement, from the Court under subsection (c) in
16 order to cover the administrative costs referred to in
17 that subsection.

18 “(e)(1) Not later than February 1 of each year, the
19 Court shall submit to Congress a report on the funds and
20 financial assistance provided under this section during the
21 preceding fiscal year. Based on the information provided
22 the Court by entities receiving such funds and assistance,
23 each report shall—

24 “(A) set forth the amount, if any, of funds pro-
25 vided to nonprofit organizations under paragraph

1 (1) of subsection (a) during the fiscal year covered
2 by the report;

3 “(B) set forth the amount, if any, of financial
4 assistance provided to legal assistance entities pur-
5 suant to paragraph (1) of subsection (a) or under
6 paragraph (2) of that subsection during that fiscal
7 year;

8 “(C) set forth the amount, if any, of funds pro-
9 vided to nonprofit organizations under subsection (c)
10 during that fiscal year; and

11 “(D) describe the programs carried out under
12 this section during that fiscal year.

13 “(2) The Court may require that any nonprofit orga-
14 nization and any legal assistance entity to which funds or
15 financial assistance are provided under this section provide
16 the Court with such information on the programs carried
17 out under this section as the Court determines necessary
18 to prepare a report under this subsection.

19 “(f) For the purposes of this section:

20 “(1) The term ‘nonprofit organization’ means
21 any not-for-profit organization that is involved with
22 the provision of legal assistance to persons unable to
23 afford such assistance.

24 “(2) The term ‘legal assistance entity’ means a
25 not-for-profit organization or veterans service orga-

1 nization capable of providing legal assistance to per-
2 sons with respect to matters before the Court.

3 "(3) The term 'veterans service organization'
4 means an organization referred to in section
5 5902(a)(1) of this title, including an organization
6 approved by the Secretary under that section.".

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of such chapter is amended by inserting
9 after the item relating to section 7286 the following new
10 item:

"7287. Legal assistance for financially needy veterans in proceedings before the Court.".

Passed the House of Representatives July 16, 1996.

Attest:

Clerk.