

VETERANS' EDUCATION AND COMPENSATION BENEFITS
AMENDMENTS OF 1996

JUNE 27, 1996.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. STUMP, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 3674]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3674) 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, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

INTRODUCTION

The reported bill reflects the Committee's consideration of several bills introduced during the 104th Congress, including H.R. 109, H.R. 1482, H.R. 2868 and H.R. 3493. Additional provisions were included for consideration by the full Committee.

On April 17, 1996, the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs ordered reported H.R. 3248 to the full Committee, which contained provisions from H.R. 109 and H.R. 1482.

On April 18, 1996, the Subcommittee on Education, Training, Employment and Housing held a hearing and discussed H.R. 2868.

On May 22, 1996, the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs ordered reported favorably H.R.

3493 to the full Committee. H.R. 3493 was reintroduced as H.R. 3506 on May 22, 1996, with identical legislative language and with additional original cosponsors.

On June 20, 1996, H.R. 3674 was ordered reported by the full Committee to the House.

SUMMARY OF THE REPORTED BILL

H.R. 3674 contains two titles.

Title I would:

1. Require a causal relationship between a veteran's service-connected disability and employment handicap to qualify for vocational rehabilitation assistance.
2. Increase the basic monthly rate of the Montgomery GI Bill-Active Duty.
3. Enable certain active duty Post Vietnam-Era Educational Assistance Program participants to transfer to the Montgomery GI Bill-Active Duty.
4. Provide eligibility for certain current and former active duty members of the Army and Air National Guard for the Montgomery GI Bill.
5. Make permanent the authority for payment of Montgomery GI Bill benefits for alternative teacher certification programs.

Title II would:

1. Amend the effective date of discontinuance of certain veterans' benefits by reason of death of recipient.
2. Increase the period for which accrued benefits are payable.
3. Increase the maximum allowance provided by the Secretary for the purchase of an automobile from \$5,500 to \$6,500.
4. Authorize the provision of funds in order to provide financial assistance by grant or contract to legal assistance entities for representation of financially needy veterans in connection with proceedings before the United States Court of Veterans Appeals.

BACKGROUND AND DISCUSSION

TITLE I—VETERANS' EDUCATION PROGRAMS

SECTION 101. *Employment handicap for which an individual may receive training and rehabilitation assistance.* This section would restore the causal relationship between a service-connected disability and an employment handicap for the purpose of awarding vocational rehabilitation benefits. Since 1917, when vocational rehabilitation for veterans was established by law, a causal relationship between a veteran's service-connected disability and an employment handicap was required for service-disabled veterans to be eligible for vocational rehabilitation benefits. This nexus formed the basis for the original program and defined the Nation's responsibility for vocational rehabilitation to those veterans who incur or aggravate a disability while serving in our Armed Forces.

In 1980, Public Law 96-466 extensively revised vocational rehabilitation programs in chapter 31 and the express statutory lan-

guage requiring the causal relationship was omitted. As a result, under current law, veterans seeking vocational rehabilitation benefits under chapter 31 satisfy the statutory requirements if they (1) have a compensable service-connected disability and (2) are found to be in need of rehabilitation because of an employment handicap. Nonetheless, when the VA promulgated regulations related to the changes in the vocational rehabilitation programs, the VA continued to require the causal relationship as it had done in the past.

A 1995 Court of Veterans Appeals decision, *Davenport v. Brown*, 7 Vet. App. 476 (1995), found no statutory support for the VA's regulations requiring a causal relationship between the service-connected disability and the employment handicap. As a result, the VA estimated that the *Davenport* decision would produce 32,366 additional participants in vocational rehabilitation programs over five years. This represents a 14.4 percent increase in participation and a 14.6 percent increase in entitlement spending. The VA estimates that enactment of legislation to restore the causal relationship between a service-connected disability and vocational rehabilitation would result in pay-as-you-go-savings of \$285 million during fiscal years 1997–2002.

The bill would in effect reverse the *Davenport* decision, and make other improvements enabling the VA to focus its resources on service-disabled veterans most in need of training and rehabilitation assistance. The bill would reinstate original Congressional intent by requiring a nexus between the veteran's service-connected disability and employment handicap in the same manner as required by the VA's regulations prior to the *Davenport* decision.

SECTION 102. *Increase in basic Montgomery GI Bill-Active Duty rates.* This section would raise the basic monthly rate for full-time education training under the Montgomery GI Bill-Active Duty \$5 from \$416.62 to \$421.62. The monthly full-time rate for two-year enlistees would be increased from \$338.51 to \$343.51. The Committee directs that the annual cost of living allowance (COLA) increase for fiscal year 1997, as required by title 38, be based on the new rates.

SECTION 103. *Opportunity for certain VEAP-participants to enroll.* This section would authorize service members participating in the chapter 32 Veterans' Education Assistance Program (VEAP) to transfer to the Montgomery GI Bill, chapter 30, title 38, USC. Post-Vietnam service members were eligible to enroll in VEAP after December 31, 1976, and before April 1, 1987. VEAP was the first contributory education benefit plan. Under VEAP, active duty service members made voluntary contributions to an individual account which the federal government matched at a 2:1 ratio. The maximum participant contribution was \$2,700, and participants could elect to make a lump-sum contribution to the fund. In most cases, a veteran had 10 years in which to use the education benefit, and/or make a claim for the unused contribution.

According to VA statistics, 18,927 persons used their VEAP entitlement in fiscal year 1995, which amounted to four percent of the total of persons using VA training and education benefits. By comparison, the Montgomery GI Bill provided benefits to nearly 292,000 trainees, or 59 percent of the total.

The Committee believes that by allowing VEAP participants the opportunity to transfer into the Montgomery GI Bill, veterans will be afforded a greater education benefit, and an unpopular and relatively unsuccessful program will be brought nearer to closure. The Committee is convinced that it is in the best interest of the Departments of Defense and Veterans' Affairs, and most importantly, for the veterans affected, to provide improved education and training opportunities whenever possible.

SECTION 104. *Montgomery GI Bill eligibility for certain current and former active duty members of Army and Air National Guard.* This section would provide eligibility for Montgomery GI Bill for some current and former active duty members of the Army and Air National Guard serving between June 30, 1985 and November 29, 1989. These members were not afforded the opportunity to participate in any education program, and the Committee desires to recognize their service with the same benefit available to others who served during that period.

SECTION 105. *Permanent authority for Alternative Teacher Certification Programs.* This section would make permanent a pilot program established under Public Law 103-446 which provides Montgomery GI Bill benefits to those pursuing State-approved alternative teacher certification programs through non-traditional educational institutions. The program is currently set to expire on September 30, 1996. The bill also further defines the term "non-traditional educational institution". For example, a veteran participating in programs offered by school districts or a consortium of school districts and certified by State Approving Agencies would be eligible for GI Bill benefits. Typically, a school district would offer certification through a combination of course work and "student teaching" under the guidance of a certified teacher, saving both time and tuition for the new teacher.

The Committee views the proposal favorably because it is successfully offering greater flexibility to a number of veterans. By 1995, 40 states and the District of Columbia reported that more than 50,000 persons have been licensed to teach through state alternative routes.

TITLE II—VETERAN'S BENEFITS PROGRAMS

As of May, 1996, 2.2 million veterans received service-connected disability compensation and 420,789 veterans received non service-connected pension. The number of spouses receiving Dependency and Indemnity Compensation totaled 300,934 for the same period. The Department of Veterans Affairs expenditures for disability compensation for fiscal year 1996 are expected to be more than \$15 billion.

Approximately 50,000 compensation recipients and about 45,000 pension recipients die annually. About two-thirds of compensation recipients have surviving spouses, resulting in about 1,000 new Dependency and Indemnity Compensation beneficiaries per month. Widows and widowers of newly deceased pension recipients average about 1,500 per month. Deaths of compensation and pension recipients occur evenly through a given month.

SECTION 201. *Effective date of discontinuance of certain veterans' benefits by reason of death of recipient.* This provision would allow

a surviving spouse to retain compensation or pension payments prorated to the day of death, instead of the end of the previous month. This provision would recognize the veterans' dependence on the compensation or pension. The effective date of this provision would be October 1, 1997.

SECTION 202. *Increase in period for which accrued benefits are payable.* This provision would authorize an increase in the payment of accrued benefits for survivors from one year to two years, in the case of a veteran dying prior to adjudication of the claim. Current law limits payment of back benefits to one year. This increase would recognize the length of time it currently takes VA to process and adjudicate a claim.

SECTION 203. *Increase in automobile allowance.* This provision would increase from \$5,500 to \$6,500 the maximum allowance provided for purchase of an automobile. The auto allowance, a one time grant, is available to severely disabled veterans if their disability is the result of an injury incurred or disease contracted in or aggravated by active military service. The Secretary prescribes or assists in providing an automobile or other conveyance to each eligible person by paying the lesser of the total purchase price of the automobile or conveyance or the maximum allowance. The allotment has not been increased since April 1988. Approximately 900 people will be affected by this provision.

SECTION 204. *Legal assistance for financially needy veterans in connection with Court of Veterans Appeals proceedings.* Section 204 would authorize the provision of funds in order to provide financial assistance by grant or contract to legal assistance entities for representation of financially needy veterans in connection with proceedings before the United States Court of Veterans Appeals.

In 1991, the Court of Veterans Appeals found that the overwhelming majority of appellants appearing before it were unrepresented by attorneys. In order to alleviate the resulting burden, the Court proposed the creation of the Pro Bono Representation Program to provide free legal representation to veterans with claims before the Court. Prior to fiscal year 1996, a discrete line-item appropriation was included in the Court's budget and designated for transfer to the Program's administrator, the Legal Services Corporation. In fiscal year 1996, the Court's operating funds were appropriated through successive continuing resolutions which did not include such a discrete line-item appropriation. In addition, the Court's funding was reduced from the \$9.8 million requested for fiscal year 1996 to \$9 million, an 8 percent decrease. Despite the reduction from its requested level of funding, the Court was compelled to provide funding for the Pro Bono program. In the Court's view, the fiscal year 1996 funding situation created a dilemma requiring the Court to choose between its own operations and full funding of the representation program designed to benefit one side of the litigation before it. In fiscal year 1997, the Court did not request money to fund the Program because it saw a reduction in its annual appropriation as creating a conflict between the Court's funding and the Program's funding. In order to avoid what it perceived to be the appearance of an ethical dilemma, the Court requested an alternative funding method for fiscal year 1997 while still fully supporting the Program.

The Committee believes that the Pro Bono Program provides a valuable service to both veterans and the Court. Veterans receive free legal representation in a process which becomes complex and adversarial upon reaching the Court of Veterans Appeals. The Court is not burdened with as many unrepresented claims as it was prior to the creation of the Program. It is therefore able to operate a more efficient appellate judicial system.

Consequently, in this bill, the Committee would fund the Program for six years at \$700,000 per year, with an increase of three percent per year beginning in fiscal year 1998. The bill would fund the Program through the VA's Compensation and Pension account. This amount would be reduced during each of the six years by any appropriation enacted for operation of the Program. The Court would receive the funding from the account and/or the enacted appropriation, select a program administrator, and pass the funds to the administrator.

SECTION-BY-SECTION ANALYSIS

Section 1 would be cited as the "Veterans' Education and Compensation Benefits Amendments of 1996".

Section 101(a) would amend section 3101 of title 38, United States Code, by establishing the causal relationship between a veteran's service-connected disability rated at 10 percent or more and an employment handicap and the need for vocational rehabilitation.

Section 101(b) would amend section 3102 to simplify the language and clarify that the Secretary is to determine if a veteran is in need of rehabilitation because of a serious employment handicap. These amendments would not be substantive.

Section 101(c) would amend section 3103 to make clarifying and technical amendments to section 3103.

Section 101(d) would amend section 3104 correlate rehabilitation services to the severity of impairment derived from a veteran's service-connected disability or disabilities.

Section 101(e) would amend section 3103 by correlating the duration of assistance with a veteran's current impairment to employment.

Section 101(f) would amend section 3106 by allowing the Secretary to determine whether a veteran who has a serious employment handicap is capable of participating in a program of independent living services under section 3120 of title 38.

Section 101(g) would amend section 3108 requiring a standard that the veteran satisfactorily follow a program of employment services.

Section 101(h) would amend section 3117(a) (1) by inserting "rated 10 percent or more" after "disability".

Section 101(i) would amend section 3120 by striking "service-connected disability described in section 3102(1)(A)" and inserting "serious employment handicap resulting in substantial part from a service-connected disability described in section 3102(1)(A)(i)" to clarify the nexus requirement.

Section 101(j) would make the effective date the date of enactment of this Act, except that amendments relating to the causal relationship would be given prospective effect.

Section 102(a)(1) would amend section 3015(a)(1) by increasing by \$5 the basic monthly education benefit for full-time students rates to \$421.62.

Section 102(a)(2) would amend section 3015(b)(1) by increasing by \$5 the basic monthly education benefit for two year enlistees to \$343.51.

Section 102(b) would make the increase made in this section effective on October 1, 1996.

Section 103(a) would amend subchapter II of chapter 30 by allowing certain chapter 32 active duty participants to transfer enrollment to the Montgomery GI Bill and would add the following new sections:

Section 3018C(a) would allow VEAP participants (Chapter 32) to elect to transfer to the Montgomery GI Bill (Chapter 30).

Section 3018C(b) would require that the basic pay of an individual who elects to transfer be reduced by \$1,200, or that the Secretary collect \$1,200, from the individual, in order to become eligible for this entitlement.

Section 3018C(c) would provide for the disenrollment from the VEAP program upon a veteran's election to transfer to chapter 30 education benefits and would provide for the transfer of education funds from VEAP accounts (chapter 32) to Montgomery GI Bill accounts (chapter 30).

Section 104(a) would amend paragraph (7) of section 3002 allowing active duty National Guard Reserve members who first served between November 29, 1989 and June 30, 1985 to participate in Montgomery GI Bill benefits.

Section 104(b)(1) would allow a nine month window to apply for benefits under this Act.

Section 104(b)(2) would authorize the Secretary of Defense to collect \$1,200 from individuals as necessary to establish eligibility for authorized educational benefits under this Act.

Section 104(b)(3) would provide for a ten-year time limitation for eligibility and entitlement for benefits authorized under this section.

Section 105 would amend of section 3452(c) by making permanent the alternative teacher certification program.

Section 201(a) would amend section 5112(b)(1) by establishing the effective date of reductions and discontinuance of compensation, dependency and indemnity compensation, or pension when the recipient marries, remarries, or dies.

Section 201(b) would amend section 5112 by providing for payment of benefit during the final month.

Section 201(c) would amend section 5110(d) by adding a new paragraph providing for the commencement date of Dependency and Indemnity Compensation on the day after the veteran's death.

Section 201(d) would provide an effective date for deaths occurring on or after October 1, 1997.

Section 202 would amend section 5121(a) by increasing the period for which accrued benefits are payable from one year to two years.

Section 203(a) would amend section 3902(a) by increasing the automobile allowance from \$5,500 to \$6,500.

Section 203(b) would make the increase made in this section effective for purchases of automobiles and other conveyances on or after the date of enactment of this Act.

Section 204(a) would amend subchapter III of chapter 72 by adding a new section: “Section 7287 Legal assistance for financially needy veterans in proceedings before the Court”, and would add the following new sections:

Section 7287(a) would require the Court to provide funds for financial assistance to legal assistance entities in order to provide free legal representation for indigent veterans.

Section 7287(b) would clarify the type of activity covered under this section, including financial assistance to defray the expenses of legal representation, case screening and referral services to pro bono attorneys or education and training activities for attorneys. This section would also provide that veterans or other parties before the Court who cannot afford the costs of legal representation would receive such free legal assistance in proceedings before the Court. It would further provide that entities receiving financial assistance for free legal representation of individuals may not require or request payment from any individual in connection with the Pro Bono Program.

Section 7287(c) would fund the Pro Bono Program for fiscal years 1997 through 2003 at \$700,000 per year with an additional three percent per year beginning in fiscal year 1998. This funding would be paid out of the VA’s Compensation and Pension account. It would further provide that the funding from the account would be reduced by any amount appropriated for operation of the Program.

Section 7287(d) would provide that a nonprofit organization may accept funds from the Court and provide financial assistance by grant or contract to legal assistance entities to furnish free legal services to veterans. It would further provide that a nonprofit organization would administer any such grant or contract and accept funds from the Court to cover the administrative costs associated with the Program.

Section 7287(e) would require the Court to submit to Congress by February 1 of each year, a report on the funds and financial assistance provided under the Program. It would further allow the Court to require any nonprofit organization and any legal assistance entity which receives funds under this section to provide the Court with pertinent information on the Program.

Section 7287(f) would establish definitions for “nonprofit organization”, “legal assistance entity”, and “veterans service organization”.

Section 204(b) would make a clerical amendment adding section 7287 to the table of sections at the beginning of chapter 72.

OVERSIGHT FINDINGS

No oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 21, 1996.

Hon. BOB STUMP,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3674, Veterans Education and Compensation Benefits Amendments of 1996, as ordered reported by the House Veterans' Affairs Committee on June 20, 1996.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Attachment

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3674
2. Bill title: Veterans' Education and Compensation Benefits Amendments of 1996.
3. Bill status: As ordered reported by the House Committee on Veterans' Affairs on June 20, 1996.
4. Bill purpose: The bill would affect eligibility for training and rehabilitation assistance, payments under the Montgomery GI Bill (MGIB), eligibility of current participants in the Post-Vietnam Educational Assistance Program (VEAP) for MGIB, and several provisions of law governing compensation and pension benefits.
5. Estimated cost to the Federal Government: The following table summarizes the budgetary effects of the bill over the 1997–2002 period.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
DIRECT SPENDING							
Proposed changes:							
Estimated budget authority	0	11	–2	–16	–15	–15	–17
Estimated outlays	0	9	–2	–16	–14	–16	–17

Spending resulting from this bill would fall under budget function 700.

6. Basis of estimate: The estimate assumes enactment of the bill and an effective date of October 1, 1996. CBO used historical spending rates for estimating outlays.

Veterans' Education and Readjustment Benefits

Six provisions would affect veterans education and readjustment benefits. Their costs are shown in Table 1.

TABLE 1: COSTS OF PROVISIONS AFFECTING READJUSTMENT BENEFIT PROGRAMS
[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
DIRECT SPENDING							
Spending under current law:							
Estimated budget authority	1,360	1,369	1,486	1,556	1,546	1,487	1,488
Estimated outlays	1,290	1,399	1,486	1,556	1,566	1,467	1,488
Proposed changes:							
Estimated budget authority	0	-4	-17	-32	-31	-31	-34
Estimated outlays	0	-4	-17	-32	-31	-31	-34
Spending under the bill:							
Estimated budget authority	1,360	1,365	1,469	1,524	1,515	1,456	1,454
Estimated outlays	1,290	1,395	1,469	1,524	1,535	1,436	1,454

Eligibility for training and rehabilitation assistance (section 101).—This provision would require veterans to show that their employment handicaps are a direct result of their service-connected disability, thus overturning a recent court decision. CBO estimates that savings would total \$20 million for 1997 and about \$58 million in 2002 based on about 3,100 trainees and about 7,600 trainees in 1997 and 2002, respectively. The number of trainees affected by the bill would vary over the five-year period primarily because the average training period is about two and a half years, and the bill would apply to more than one cohort after 1997. The estimate assumes an average benefit of about \$7,000 a year.

Increase in basic Montgomery GI Bill rates (section 102).—This section would raise the basic monthly education benefit by \$5 a month. This increase is not large enough to affect participation rates, so this estimate assumes that participation remains at baseline levels—about 466,000 trainees a year. Consequently, the provision would cost about \$13 million in 1997, and costs would rise to \$17 million in 2001.

Transfer of VEAP beneficiaries to the Montgomery GI Bill (section 103).—The bill would provide an opportunity for active duty personnel currently enrolled in Post-Vietnam Era Veterans Education Program to transfer to the Montgomery GI Bill program. Like all other participants, these people would be required to contribute \$1,200. The current balance of their contributions to VEAP would automatically be transferred to the Treasury. The Secretary of Defense would collect contributions from participants and refund balances in excess of \$1,200.

CBO estimates that approximately 10 percent or about 7,500 veterans would transfer to the Montgomery GI Bill program. For 1997, refunds would exceed contributions by about \$4 million. The average benefit for trainees is higher for the Montgomery GI Bill by \$700, and training costs would be \$1 million for the 1,875 trainees. Thus, the total cost for 1997 would be \$5 million. Because the

refunds would all be paid in 1997, the only costs over the 1998–2002 period are the increased training benefits—\$2 million for 1998 and 1999 and \$3 million a year thereafter.

Eligibility of certain Reserve personnel for Montgomery GI Bill (section 104).—This provision would allow certain members of the Reserve Components serving on active duty to become eligible for Montgomery GI Bill benefits if they enroll and contribute \$1,200. Those members, who came on active duty between June 30, 1985, and November 29, 1989, have never been offered the opportunity to enroll.

According to the Department of Defense (DOD), about 3,950 of an eligible population totaling about 4,400 people are expected to enroll. CBO estimates that the contributions would exceed training costs by about \$4 million in 1997. Beginning in 1998, the provision would result in added costs of about \$4 million as the first cohort begins to train. Costs reach \$5 million in 1999, but would then decline by about \$1 million a year through 2002 because the bill would apply to a fixed number of beneficiaries and the likelihood of their using the benefit falls over time.

Alternative teaching certificates (section 105).—The bill would permanently extend VA's authority to pay MGIB benefits to veterans who train in State-approved certification programs. Under current law, VA's authority expires at the end of fiscal year 1996; thus, costs begin in 1997. Training usually occurs in one of three settings—universities, service centers, or school districts. This bill would provide benefits to students who train outside of a university setting.

CBO assumes that the number of people training in these programs will remain steady (about 380 per year), and that enrollment will continue to be evenly divided between university and other settings. Also, CBO assumes that, on average, participants would train for a period of about 10 months. Based on a benefit rate for full-time students of about \$400 per month of training, the bill would increase costs by about \$1 million per year.

Increase in automobile allowance (section 203).—VA currently awards allowances to certain disabled veterans to purchase automobiles. This bill would increase the automobile allowance from \$5,500 to \$6,500. According to VA, this provision would benefit about 1,100 persons, and the yearly cost would be about \$1 million.

Other Benefit Programs

Table 2 shows the costs of three provisions that would affect other benefit programs.

Discontinuance of veterans' benefits (section 201).—Currently, a veteran's compensation benefit is discontinued on the last day of the month prior to the veteran's death. This bill would allow surviving spouses of totally disabled veterans to keep a share of the monthly benefit that would vary according to the date of the veteran's death. Data from the Department of Veterans Affairs (VA) indicate that close to 33,000 survivors of compensation beneficiaries and about 18,000 survivors of veterans who are pensioners would benefit from this provision each year. On average, survivors would be paid half a month's benefit, resulting in a cost of \$11 million in 1997 rising to \$12 million in 2002.

TABLE 2: COST OF PROVISIONS AFFECTING OTHER BENEFIT PROGRAMS

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
DIRECT SPENDING							
Spending under current law:							
Estimated budget authority	17,991	18,168	18,447	19,209	19,512	19,847	20,215
Estimated outlays	16,565	18,183	18,389	19,146	20,912	18,395	20,184
Proposed changes:							
Estimated budget authority	0	15	15	16	16	16	17
Estimated outlays	0	13	15	16	17	15	17
Spending under the bill:							
Estimated budget authority	17,991	18,183	18,462	19,225	19,528	19,863	20,232
Estimated outlays	16,565	18,196	18,404	19,162	20,929	18,410	20,201

Accrued benefits (section 202).—Currently, veterans' compensation or pension benefits are payable retroactive to the date of application, and can be accrued for up to one year. Depending on the nature of the case, the adjudication process for veterans' benefits can last several years. If a veteran dies during the adjudication process, VA pays the surviving spouse the accrued benefits that would have been paid to the veteran. This bill would require VA to pay surviving spouses benefits accrued for up to two years rather than one.

VA does not have adequate data for a cost estimate. About 3,000 accrued cases were paid last year, most involving compensation payments. If half of these accrued cases involved claims that would entitle survivors to more than a year's worth of benefits—16 months, for example—the cost of this bill would be about \$3 million a year for the extra four months of benefits.

Legal assistance for financially needy veterans (section 204).—This provision would permit the Court of Veterans Appeals (COVA) to provide financial assistance on behalf of needy veterans to third parties for screening, legal representation and advice, and other such purposes. The legislation would require that certain amounts appropriated for compensation and pensions in 1997 through 2003 be transferred to a fund for the payment of this legal assistance. The bill would provide \$700,000 in 1997 and the same amount increased by 3 percent a year thereafter.

In addition, the bill would create a gift fund for the same purposes. Citizens or corporations could contribute to the legal assistance fund. CBO estimates that these funds would be expended in the year they are received. Thus, the creation of the gift fund would have no net budgetary impact.

7. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. The bill would have the following pay-as-you-go impact:

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays	0	9	—2
Change in receipts	Not applicable		

8. Estimated impact on State, local, and tribal governments: H.R. 3674 contains no intergovernmental mandates as defined by

Public Law 104–4 and would not affect the budgets of State, local or tribal governments.

9. Estimated impact on the private sector: This bill would impose no new federal private-sector mandates, as defined in Public Law 104–4.

10. Previous CBO estimate: None.

11. Estimate prepared by:

Federal cost estimate: Victoria Fraider and Mary Helen Petrus.

Impact on State, local, and tribal governments: Marc Nicole.

Impact on private sector: Ellen Breslin Davidson.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

The enactment of the reported bill would have no inflationary impact.

APPLICABILITY TO LEGISLATIVE BRANCH

The reported bill would not be applicable to the legislative branch under the Congressional Accountability Act, Public Law 104–1, because the bill would only affect certain Department of Veterans Affairs programs and benefits recipients.

STATEMENT OF FEDERAL MANDATES

The reported bill would not establish a federal mandate under the Unfunded Mandates Reform Act, Public Law 104–4.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

SUBCHAPTER I—PURPOSES; DEFINITIONS

Sec.
3001. Purposes.

* * * * *

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

3011. Basic educational assistance entitlement for service on active duty.

* * * *

3018C. *Enrollment of certain VEAP-enrolled individuals.*

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SUBCHAPTER I—PURPOSES; DEFINITIONS

* * * *

§ 3002. Definitions

For the purposes of this chapter—

(1) * * *

* * * *

(7) The term “active duty” includes full-time National Guard duty first performed after **【November 29, 1989】** *June 30, 1985*, by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member’s status as a member of the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard.

* * * *

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

* * * *

§ 3013. Duration of basic educational assistance

(a) * * *

* * * *

(d) Subject to section 3695 of this title, each individual entitled to educational benefits under section 3018A **【or 3018B】**, *3018B*, or *3018C* of this title is entitled to the lesser of—

(1) 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance; or

(2) the number of months of such educational assistance (or such equivalent thereof) that is equal to the number of months served by such individual on active duty.

* * * *

§ 3015. Amount of basic educational assistance

(a) The amount of payment of educational assistance under this chapter is subject to section 3032 of this title. Except as otherwise provided in subsections (b), (c), (d), (e), (f), and (g) of this section, a basic educational assistance allowance under this subchapter shall be paid—

(1) at the monthly rate of **【\$400】** *\$421.62* for an approved program of education pursued on a full-time basis; or

* * * *

(b) Except as provided in subsections (c), (d), (e), (f), and (g), in the case of an individual entitled to an educational assistance al-

lowance under section 3011 or 3018 of this title and whose initial obligated period of active duty is two years, a basic educational assistance allowance under this chapter shall be paid—

(1) at the monthly rate of ~~【\$325】~~ \$343.51 for an approved program of education pursued on a full-time basis; or

* * * * *

(f) In the case of an individual for whom the Secretary of Defense made contributions under section 3222(c) of this title and who is entitled to educational assistance under section 3018A, 3018B, or 3018C of this chapter, the Secretary shall increase the rate of the basic educational assistance allowance applicable to such individual in excess of the rate provided under subsection (a) of this section in a manner consistent with, as determined by the Secretary of Defense, the agreement entered into with such individual pursuant to the rules and regulations issued by the Secretary of Defense under section 3222(c) of this title.

* * * * *

§ 3018C. Enrollment of certain VEAP-enrolled individuals

(a) *Notwithstanding any other provision of law, the Secretary of Defense shall allow an individual who—*

(1) is a participant on the date of the enactment of the Veterans' Education and Compensation Benefits Amendments of 1996 in the educational benefits program provided by chapter 32;

(2) is serving on active duty (excluding the periods referred to in section 3202(1)(C)) on such date;

(3) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree;

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

(5) before 180 days after the date of the enactment of the Veterans' Education and Compensation Benefits Amendments of 1996, makes an irrevocable election to receive benefits under this section in lieu of benefits under chapter 32 of this title, pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Transportation shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy;

to become entitled to basic educational assistance under this chapter.

(b) *With respect to an individual who makes an election under subsection (a) to become entitled to basic education assistance under this chapter—*

(1) the basic pay of the individual shall be reduced (in a manner determined by the Secretary of Defense) until the total amount by which such basic pay is reduced is \$1,200; or

(2) *the Secretary shall collect \$1,200 from the individual, which shall be paid into the Treasury of the United States as miscellaneous receipts.*

(c)(1) *Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(5) of this section shall be disenrolled from such chapter 32 program as of the date of such election.*

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

(A) *as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and*

(B) *to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.*

(3) *Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 3222 of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such account to make payments of benefits to such individual under section 3015(f) of this title.*

(d) *The procedures provided in regulations referred to in subsection (a) shall provide for notice of the requirements of subparagraphs (B), (C), and (D) of section 3011(a)(3) and of subparagraph (A) of section 3012 of this title. Receipt of such notice shall be acknowledged in writing.*

SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

* * * * *

§ 3035. Allocation of administration and of program costs

(a) * * *

(b)(1) *Except to the extent provided in paragraphs (2) and (3) of this subsection, payments for entitlement earned under subchapter II of this chapter shall be made from funds appropriated to, or otherwise available to, the Department of Veterans Affairs for the payment of readjustment benefits and from transfers from the Post-Vietnam Era Veterans Education Account pursuant to section 3232(b)(2)(B) of this title.*

* * * * *

(3) *Payment for entitlements established under section 3018A [or 3018B], 3018B, or 3018C of this title shall be made—*

(A) *except as provided in subparagraphs (B) and (C) of this paragraph, from the Department of Defense Education Benefits Fund established under section 2006 of title 10;*

* * * * *

CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

* * * * *

§ 3101. Definitions

For the purposes of this chapter—

(1) The term “employment handicap” means an impairment, *resulting in substantial part from a disability described in section 3102(1)(A) of this title*, of a veteran’s ability to prepare for, obtain, or retain employment consistent with such veteran’s abilities, aptitudes, and interests.

* * * * *

(6) The term “rehabilitation program” means (A) a vocational rehabilitation program, or (B) a program of independent living services and assistance *authorized under section 3120 of this title* for a veteran for whom a vocational goal has been determined not to be currently reasonably feasible.

(7) The term “serious employment handicap” means a significant impairment, *resulting in substantial part from a service-connected disability rated at 10 percent or more*, of a veteran’s ability to prepare for, obtain, or retain employment consistent with such veteran’s abilities, aptitudes, and interests.

* * * * *

§ 3102. Basic entitlement

A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—

(1) the person—

(A) is—

(i) a veteran who has a service-connected disability **【which is, or but for the receipt of retired pay would be, compensable at a rate of 20 percent or more under chapter 11 of this title】** *rated at 20 percent or more* and which was incurred or aggravated in service on or after September 16, 1940; or

(2) the person is a veteran who—

(A) has a service-connected disability **【which is, or but for the receipt of retired pay would be, compensable at a rate of 10 percent under chapter 11 of this title】** *rated at 10 percent* and which was incurred or aggravated in service on or after September 16, 1940; and

【(B) has a serious employment handicap.】

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

* * * * *

§ 3103. Periods of eligibility

(a) * * *

(b)(1) * * *

* * * * *

(3) In any case in which the Secretary determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because such veteran had not established the existence of a service-connected disability [described in section 3102(1)(A)(i) of this title] *rated at 10 percent or more*, the twelve-year period of eligibility shall not run during the period such veteran was so prevented from participating in such a program.

(c) In any case in which the Secretary determines that a veteran is in need of services to overcome a serious employment handicap, such veteran may be afforded a vocational rehabilitation program after the expiration of the period of eligibility otherwise applicable to such veteran if the Secretary also determines, on the basis of such veteran's [particular] *current* employment handicap and need for such services, that an extension of the applicable period of eligibility is necessary for such veteran and—

(1) that such veteran had not previously been rehabilitated to the point of employability;

(2) that such veteran had previously been rehabilitated to the point of employability but (A) the need for such services had arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran was previously trained in a vocational rehabilitation program under this chapter, or (B) the occupation for which such veteran had been so trained is not suitable in view of such [veteran's employment] *veteran's current employment* handicap and capabilities; or

(d) In any case in which the Secretary has determined that a veteran's disability or disabilities are so severe that the achievement of a vocational goal currently is not reasonably feasible, such veteran may be afforded a program of independent living services and assistance [under this chapter] *in accordance with the provisions of section 3120 of this title* after the expiration of the period of eligibility otherwise applicable to such veteran if the Secretary also determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.

§ 3104. Scope of services and assistance

(a) Services and assistance which the Secretary may provide under this chapter, pursuant to regulations which the Secretary shall prescribe, include the following:

(1) Evaluation, including periodic reevaluations as appropriate with respect to a veteran participating in a rehabilitation program, of the potential for rehabilitation of a veteran, including diagnostic and related services (A) to determine whether [such veteran's disability or disabilities cause] *the veteran has an employment handicap or* a serious employment handicap and whether a vocational goal is *reasonably* feasible for such veteran, and (B) to provide a basis for planning a suitable vocational rehabilitation program or a program of services and assistance to improve the vocational rehabilitation poten-

tial or independent living status of such veteran, as appropriate.

* * * * *

(7)(A) Vocational and other training services and assistance, including [(i)] individualized tutorial assistance, tuition, fees, books, supplies, handling charges, licensing fees, and equipment and other training materials determined by the Secretary to be necessary to accomplish the purposes of the rehabilitation program in the individual case[, and (ii) job-readiness skills development and counseling under section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note) for a participant in a program of training under such Act].

* * * * *

(12) [For the most severely disabled veterans requiring] *For veterans with the most severe service-connected disabilities who require* homebound training or self-employment, or both homebound training and self-employment, such license fees and essential equipment, supplies, and minimum stocks of materials as the Secretary determines to be necessary for such a veteran to begin employment and are within the criteria and cost limitations that the Secretary shall prescribe in regulations for the furnishing of such fees, equipment, supplies, and stocks.

* * * * *

[(b) A program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a).]

[(c)] (b) A rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the Secretary.

* * * * *

§ 3105. Duration of rehabilitation programs

(a) * * *

* * * * *

(c) The Secretary may extend the period of a vocational rehabilitation program for a veteran to the extent that the Secretary determines that an extension of such period is necessary to enable such veteran to achieve a vocational goal if the Secretary also determines—

(1) that such veteran had previously been rehabilitated to the point of employability but (A) such veteran's need for further vocational rehabilitation has arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran had been so rehabilitated, or (B) the occupation for which such veteran had been so rehabilitated is not suitable in view of such [veteran's employment] *veteran's current employment* handicap and capabilities; or

* * * * *

§ 3106. Initial and extended evaluations; determinations regarding serious employment handicap

(a) The Secretary shall provide any veteran who has a service-connected disability [described in clause (i) or (ii) of section 3102(1)(A) of this title] *rated at 10 percent or more* and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 3104(a)(1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in the case of a veteran who is determined to be entitled to and eligible for such benefits, to determine—

(A) whether such veteran has a serious employment handicap, and

(B) whether the achievement of a vocational goal currently is reasonably feasible for such veteran if it is reasonably feasible to make such determination without extended evaluation.

(b) In any case in which the Secretary has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal currently is reasonably feasible for such veteran, such veteran shall be provided [counseling in accordance with] an individualized written plan of vocational rehabilitation developed under section 3107(a) of this title.

(c) In any case in which the Secretary has determined that a veteran has a serious employment handicap but the Secretary is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal currently is reasonably feasible, such veteran shall be provided with *an* extended evaluation consisting of the services described in section 3104(a)(1) of this title, such services under this chapter as the Secretary determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 3108 of this title.

(d) In any case in which the Secretary has determined that a veteran has a serious employment handicap and also determines, following such initial and any such extended evaluation, that achievement of a vocational goal currently is not reasonably feasible, the Secretary shall determine whether the veteran is capable of participating in a program of independent living services and assistance under section 3120 of this title.

[(d)] (e) The Secretary shall in all cases determine as expeditiously as possible whether the achievement of a vocational goal by a veteran currently is reasonably feasible. In the case of a veteran provided extended evaluation under subsection (c) of this section (including any periods of extensions under section 3105(a) of this title), the Secretary shall make such determination not later than the end of such extended evaluation or period of extension, as the case may be. In determining whether the achievement of a vocational goal currently is reasonably feasible, the Secretary shall resolve any reasonable doubt in favor of determining that such achievement currently is reasonably feasible.

[(e)] (f) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is de-

terminated to have a serious employment handicap, the Secretary shall assign a Department of Veterans Affairs employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 3117 of this title) and assistance under this chapter to such veteran.

§ 3107. Individualized vocational rehabilitation plan

(a) * * *

* * * * *

(c)(1) * * *

(2) In any case in which a veteran does not agree to such plan as proposed, to such plan as redeveloped, or to the disapproval of redevelopment of such plan, such veteran may submit to the person described in section ~~3106(e)~~ 3106(f) of this title a written statement containing such veteran's objections and request a review of such plan as proposed or redeveloped, or a review of the disapproval of redevelopment of such plan, as the case may be.

* * * * *

§ 3108. Allowances

(a)(1) * * *

(2) In any case in which the Secretary determines, at the conclusion of such veteran's pursuit of a vocational rehabilitation program under this chapter, that such veteran has been rehabilitated to the point of employability, such veteran shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months ~~following the conclusion of such pursuit~~ *while satisfactorily following a program of employment services provided under section 3104(a)(5) of this title.*

* * * * *

(f)(1)(A) In any case in which the Secretary determines that a veteran is *eligible for and* entitled to rehabilitation under this chapter, to the extent that such veteran has remaining eligibility for and entitlement to educational assistance benefits under ~~chapter 30 or 34~~ *chapter 30* of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under ~~either chapter 30 or chapter 34~~ *chapter 30* of this title, if the Secretary approves the educational, professional, or vocational objective chosen by such veteran for such program.

(B) In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under ~~chapter 30 or 34~~ *chapter 30* of this title for such a comparable program shall be applied to the pursuit of the approved program of education under this chapter.

* * * * *

§ 3109. Entitlement to independent living services and assistance

In any case in which the Secretary has determined under section **[3106(d)] 3106(e)** of this title that the achievement of a vocational goal by a veteran currently is not reasonably feasible, such veteran shall be entitled, in accordance with the provisions of section 3120 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

* * * * *

§ 3117. Employment assistance

(a)(1) A veteran with a service-connected disability *rated at 10 percent or more* who has participated in a vocational rehabilitation program under this chapter or a similar program under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and who the Secretary has determined to be employable shall be furnished assistance in obtaining employment consistent with such veteran's abilities, aptitudes, interests, and employment handicap, including assistance necessary to insure that such veteran receives the benefit of any applicable provisions of law or regulation providing for special consideration or emphasis or preference for such veteran in employment or training.

* * * * *

§ 3118. Personnel training, development, and qualifications

(a) * * *

* * * * *

(c) Notwithstanding any other provision of law, the Secretary shall establish such qualifications for personnel providing evaluation and rehabilitation services to veterans under this chapter and for employees performing the functions described in section **[3106(e)] 3106(f)** of this title as the Secretary determines are necessary and appropriate to insure the quality of rehabilitation programs under this chapter. In establishing such qualifications, the Secretary shall take into account the qualifications established for comparable personnel under the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

* * * * *

§ 3120. Program of independent living services and assistance

(a) * * *

(b) A program of independent living services and assistance may be made available under this section only to a veteran who has a **[service-connected disability described in section 3102(1)(A)] serious employment handicap resulting in substantial part from a service-connected disability described in section 3102(1)(A)(i)** of this title and with respect to whom it is determined under section **[3106(d)]**

3106(d) or (e) of this title that the achievement of a vocational goal currently is not reasonably feasible.

* * * * *

(d) A program of independent living services and assistance for a veteran shall consist of such services described in section 3104(a) [and (b)] of this title as the Secretary determines necessary to enable such veteran to achieve maximum independence in daily living. Such veteran shall have the same rights with respect to an individualized written plan of services and assistance as are afforded veterans under section 3107 of this title.

* * * * *

CHAPTER 32—POST-VIETNAM ERA EDUCATIONAL ASSISTANCE

* * * * *

SUBCHAPTER III—ENTITLEMENT; DURATION

* * * * *

§ 3232. Duration; limitations

(a) * * *

(b)(1) In the event that an eligible veteran has not utilized any or all of such veteran's entitlement by the end of the delimiting period applicable to the veteran under subsection (a) of this section and at the end of one year thereafter has not filed a claim for utilizing such entitlement, such eligible veteran is automatically disenrolled.

(2)(A) Any contributions which were made by a veteran disenrolled under paragraph (1) of this subsection and remain in the fund shall be refunded to the veteran after notice of disenrollment is transmitted to the veteran and the veteran applies for such refund.

(B) If no application for refund of contributions under subparagraph (A) of this paragraph is received from a disenrolled veteran within one year after the date the notice referred to in such subparagraph is transmitted to the veteran, it shall be presumed[, for the purposes of section 1322(a) of title 31,] that the veteran's whereabouts is unknown and the funds shall be transferred [as provided in such section] *to the Secretary for payments for entitlement earned under subchapter II of chapter 30.*

* * * * *

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

* * * * *

SUBCHAPTER I—PURPOSE; DEFINITIONS

* * * * *

§ 3452. Definitions

For the purposes of this chapter and chapter 36 of this title—

(a) * * *

* * * * *

(c) The term “educational institution” means any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers’ college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults. ~~For the period ending on September 30, 1996, such~~ *Such* term includes any entity that provides training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary).

* * * * *

CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

* * * * *

§ 3902. Assistance for providing automobile and adaptive equipment

(a) The Secretary, under regulations which the Secretary shall prescribe, shall provide or assist in providing an automobile or other conveyance to each eligible person by paying the total purchase price of the automobile or other conveyance (including all State, local, and other taxes) or ~~[\$5,500]~~ *\$6,500*, whichever is the lesser, to the seller from whom the eligible person is purchasing under a sales agreement between the seller and the eligible person.

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * *

CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

* * * * *

SUBCHAPTER II—EFFECTIVE DATES

* * * * *

§ 5110. Effective dates of awards

(a) * * *

* * * * *

(d)(1) * * *

* * * * *

(3) *Notwithstanding paragraph (1), the effective date of an award of dependency and indemnity compensation for which application is received within one year from the date of death shall, in the case of a surviving spouse who is not entitled to have benefits computed*

under section 5310 of this title for the month in which the death occurs, be the day following the date on which the death occurred.

* * * * *

§ 5112. Effective dates of reductions and discontinuances

(a) * * *

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

[(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;]

 (1) by reason of—

 (A) *the marriage or remarriage of the payee, shall be the last day of the month before the month during which such marriage or remarriage occurs; and*

 (B) *the death of the payee, shall be (i) the last day of the month before the month during which the death occurs, or (ii) in the case of a payee who was in receipt of compensation or pension and who has a surviving spouse who is not entitled to have benefits computed under section 5310 of this title for the month in which the death occurs, the date on which the death occurs;*

* * * * *

(d) *In the case of discontinuance of payment of compensation or pension covered by subsection (b)(1)(B)(ii), the payment for the final calendar month (or any portion thereof) for which such benefit is payable shall (notwithstanding any other provision of law) be payable to the surviving spouse.*

* * * * *

SUBCHAPTER III—PAYMENT OF BENEFITS

§ 5121. Payment of certain accrued benefits upon death of a beneficiary

(a) Except as provided in sections 3329 and 3330 of title 31, periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Secretary to which an individual was entitled at death under existing ratings or decisions, or those based on evidence in the file at date of death (hereafter in this section and section 5122 of this title referred to as "accrued benefits") and due and unpaid for a period not to exceed **[one year]** *two years*, shall, upon the death of such individual be paid as follows:

(1) * * *

* * * * *

PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

* * * * *

CHAPTER 72—UNITED STATES COURT OF VETERANS APPEALS

SUBCHAPTER I—ORGANIZATION AND JURISDICTION

Sec.	
7251.	Status.
7252.	Jurisdiction; finality of decisions.
	* * * * * * *

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

7281.	Employees.
	* * * * * * *
7287.	<i>Legal assistance for financially needy veterans in proceedings before the Court.</i>
	* * * * * * *

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

* * * * * * *

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

(a)(1) *The Court of Veterans Appeals shall provide funds in order to provide financial assistance by grant or contract to legal assistance entities for purposes of programs described in subsection (b).*

(2) *The Court shall seek to provide funds for such purpose through a nonprofit organization selected by it. If the Court determines that there exists no nonprofit organization that would be an appropriate recipient of funds under this section for the purposes referred to in paragraph (1) and that it is consistent with the mission of the Court, the Court shall provide financial assistance, by grant or contract, directly to legal assistance entities for purposes of permitting such entities to carry out programs described in subsection (b).*

(b)(1) *A program referred to in subsection (a) is any program under which a legal assistance entity uses financial assistance under this section to provide assistance or carry out activities (including assistance, services, or activities referred to in paragraph (3)) in order to ensure that individuals described in paragraph (2) receive, without charge, legal assistance in connection with decisions to which section 7252(a) of this title may apply or with other proceedings before the Court.*

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

(A) *is or seeks to be a party to an action before the Court; and*

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

(3) *Assistance, services, and activities under a program described in this subsection may include the following for individuals described in paragraph (2) in connection with proceedings before the Court:*

(A) *Financial assistance to defray the expenses of legal advice or representation (other than payment of attorney fees) by attorneys, clinical law programs of law schools, and veterans service organizations.*

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

(C) Education and training of attorneys and other legal personnel who may appear before the Court by attorneys and such programs and organizations.

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

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

(5) A legal assistance entity that receives financial assistance under subsection (a) to carry out a program described in this subsection may not require or request the payment of a charge or fee in connection with the program by or on behalf of any individual described in paragraph (2).

(c)(1)(A) From amounts appropriated to the Department for each of fiscal years 1997 through 2003 for the payment of compensation and pension, the Secretary shall transfer to the Court the amount specified under subparagraph (B) for each such fiscal year, and such funds shall be available for use by the Court only in accordance with this section.

(B) The amount to be transferred to the Court under subparagraph (A) for any fiscal year is \$700,000 for fiscal year 1997 and the same amount for each succeeding fiscal year through fiscal year 2003 increased by 3 percent per year, reduced for any such fiscal year by such amount as may otherwise be specifically appropriated for the purposes of the program under this section for that fiscal year.

(2) The Court shall provide funds available to it for the purposes of the program under this section to a nonprofit organization described in subsection (a)(1). Such funds shall be provided to such organization in advance or by way of reimbursement, to cover some or all of the administrative costs of the organization in providing financial assistance to legal assistance entities carrying out programs described in subsection (b).

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

(d) A nonprofit organization may—

(1) accept funds, in advance or by way of reimbursement, from the Court under subsection (a)(1) in order to provide the financial assistance referred to in that subsection;

(2) provide financial assistance by grant or contract to legal assistance entities under this section for purposes of permitting such entities to carry out programs described in subsection (b);

(3) administer any such grant or contract; and

(4) accept funds, in advance or by way of reimbursement, from the Court under subsection (c) in order to cover the administrative costs referred to in that subsection.

(e)(1) Not later than February 1 of each year, the Court shall submit to Congress a report on the funds and financial assistance pro-

vided under this section during the preceding fiscal year. Based on the information provided the Court by entities receiving such funds and assistance, each report shall—

(A) set forth the amount, if any, of funds provided to nonprofit organizations under paragraph (1) of subsection (a) during the fiscal year covered by the report;

(B) set forth the amount, if any, of financial assistance provided to legal assistance entities pursuant to paragraph (1) of subsection (a) or under paragraph (2) of that subsection during that fiscal year;

(C) set forth the amount, if any, of funds provided to nonprofit organizations under subsection (c) during that fiscal year; and

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

(2) The Court may require that any nonprofit organization and any legal assistance entity to which funds or financial assistance are provided under this section provide the Court with such information on the programs carried out under this section as the Court determines necessary to prepare a report under this subsection.

(f) For the purposes of this section:

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

(2) The term “legal assistance entity” means a not-for-profit organization or veterans service organization capable of providing legal assistance to persons with respect to matters before the Court.

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

SECTION 1322 OF TITLE 31, UNITED STATES CODE

§ 1322. Payments of unclaimed trust fund amounts and refund of amounts erroneously deposited

(a) On September 30 of each year, the Secretary of the Treasury shall transfer to the Treasury trust fund receipt account “Unclaimed Moneys of Individuals Whose Whereabouts are Unknown” that part of the balance of a trust fund account named in section 1321(a)(1)–[(82)] (81) of this title or an analogous trust fund established under section 1321(b) of this title that has been in the fund for more than one year and represents money belonging to individuals whose whereabouts are unknown. Subsequent claims to the transferred funds shall be paid from the account “Unclaimed Moneys of Individuals Whose Whereabouts are Unknown”.

* * * * *