

VETERANS ENTREPRENEURSHIP AND BENEFITS
IMPROVEMENT ACT OF 2003

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JUNE 5, 2003.—Ordered to be printed
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Mr. SMITH of New Jersey, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 1460]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1460) to amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Entrepreneurship and Benefits Improvement Act of 2003".

SEC. 2. AUTHORIZATION FOR STATE APPROVING AGENCIES TO APPROVE CERTAIN ENTREPRENEURSHIP COURSES.

(a) **APPROVAL OF ENTREPRENEURSHIP COURSES.**—Section 3675 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

"(2) For purposes of this subsection, the term 'entrepreneurship course' means a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business enterprise.

"(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) do not apply to—

"(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

"(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses."

(b) **BUSINESS OWNERS NOT TREATED AS ALREADY QUALIFIED.**—Section 3471 of such title is amended by inserting before the last sentence the following: "The Secretary shall not treat a person as already qualified for the objective of a program

of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business.”

(c) INCLUSION OF ENTREPRENEURSHIP COURSES IN DEFINITION OF PROGRAM OF EDUCATION.—Subsection (b) of section 3452 of such title is amended by adding at the end the following: “Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses.”

(d) INCLUSION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES IN DEFINITION OF EDUCATIONAL INSTITUTION.—Subsection (c) of section 3452 of such title is amended by adding at the end the following: “Such term also includes any qualified provider of entrepreneurship courses.”

(e) DEFINITION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES.—Section 3452 of such title is further amended by adding at the end the following new subsection:

“(h) The term ‘qualified provider of entrepreneurship courses’ means—

“(1) a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), and

“(2) the National Veterans Business Development Corporation (established under section 33 of such Act (15 U.S.C. 657c)) insofar as the Corporation offers or sponsors an entrepreneurship course (as defined in section 3675(c)(2) of this title).”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to courses approved by State approving agencies after the date of the enactment of this Act.

SEC. 3. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

“SEC. 36. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

“(a) SOLE SOURCE CONTRACTS.—In accordance with this section and not withstanding any other provision of law, a contracting officer may award a sole source contract to any small business concern owned and controlled by service-disabled veterans if—

“(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

“(2) the anticipated award price of the contract (including options) will not exceed—

“(A) \$5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

“(B) \$3,000,000, in the case of any other contract opportunity; and

“(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

“(b) RESTRICTED COMPETITION.—In accordance with this section and not withstanding any other provision of law, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

“(c) APPEAL BY ADMINISTRATOR.—Not later than 5 days after the date on which the Administration is notified of a contracting officer’s decision not to award a contract opportunity under this section to a small business concern owned and controlled by service-disabled veterans, the Administrator may notify the contracting officer of the intent to appeal the contracting officer’s decision, and within 15 days of such date the Administrator may file a written request for reconsideration of the contracting officer’s decision with the Secretary of the department or agency head.

“(d) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O’Day Act (41 U.S.C. 46 et seq.).

“(e) ENFORCEMENT; PENALTIES.—Rules similar to the rules of paragraphs (5) and (6) of section 8(m) shall apply for purposes of this section.

“(f) CONTRACTING OFFICER.—For purposes of this section, the term ‘contracting officer’ has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).”.

SEC. 4. AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY.

Section 2101 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

“(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under such subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.”.

SEC. 5. REINSTATEMENT OF MINIMUM REQUIREMENTS FOR SALE OF VENDEE LOANS.

(a) IN GENERAL.—Section 3733(a) of title 38, United States Code, is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively; and

(2) in subparagraph (B)(i) of paragraph (3), as so redesignated, by striking “paragraph (5) of this subsection” and inserting “paragraph (4)”.

(b) INCREASE IN MAXIMUM PERCENTAGE.—Section 3733(a)(1) of such title is amended—

(1) by striking “65 percent” in the first sentence and inserting “85 percent”; and

(2) by striking the second sentence.

(c) STYLISTIC AMENDMENT.—Section 3733 of such title is amended by striking “paragraph (1) of this subsection” each place it appears and inserting “paragraph (1)”.

SEC. 6. PAYMENT OF ACCRUED BENEFITS.

(a) REPEAL OF LIMITATION ON PAYMENT.—Subsection (a) of section 5121 of title 38, United States Code, is amended by striking “for a period not to exceed two years” in the matter preceding paragraph (1).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to deaths occurring on or after the date of the enactment of this Act.

Amend the title so as to read:

A bill to amend title 38, United States Code, to improve education and entrepreneurship benefits, housing benefits, and certain other benefits for veterans, and for other purposes.

INTRODUCTION

The reported bill reflects the Committee’s consideration of several bills introduced during the 108th Congress, to include H.R. 241, H.R. 761, H.R. 1460, and H.R. 1949.

On April 10, 2003, the Subcommittee on Benefits held a hearing on H.R. 241, the Veterans Beneficiary Fairness Act of 2003, introduced by the Chairman and Ranking Member of the Committee, Honorable Christopher H. Smith and Honorable Lane Evans, respectively, on January 8, 2003; H.R. 533, the Agent Orange Veterans’ Disabled Children’s Benefits Act of 2003, introduced by Honorable Lane Evans, Honorable Ciro D. Rodriguez, Honorable Bob Filner, Honorable Luis V. Gutierrez, Honorable Corrine Brown, Honorable Vic Snyder, Honorable Mike McIntyre, Honorable Ber-

nard Sanders, Honorable Jose E. Serrano, and Honorable Henry A. Waxman on February 5, 2003; H.R. 761, the Disabled Servicemembers Adapted Housing Assistance Act of 2003, introduced on February 13, 2003, by Honorable Lane Evans, Honorable Christopher H. Smith, Honorable Ciro D. Rodriguez, Honorable Bob Filner, Honorable Rick Renzi, Honorable Corrine Brown, Honorable Silvestre Reyes, Honorable Michael H. Michaud, Honorable Sheila Jackson-Lee, Honorable James R. Langevin, and Honorable Bernard Sanders; H.R. 850, the Former Prisoners of War Special Compensation Act of 2003, introduced by Honorable Michael K. Simpson, Honorable Christopher Cox, Honorable John A. Boehner, Honorable David Dreier, Honorable Henry J. Hyde, Honorable Jim Kolbe, Honorable James A. Leach, Honorable C.L. “Butch” Otter, Honorable F. James Sensenbrenner, Jr., and Honorable Joe Wilson on February 13, 2003; H.R. 966, the Disabled Veterans’ Return-to-Work Act of 2003, introduced on February 27, 2003, by Honorable Henry E. Brown, Jr., Chairman of the Subcommittee on Benefits and Honorable Ciro D. Rodriguez, then-Ranking Member of the Subcommittee on Benefits, along with Honorable Christopher H. Smith and Honorable Lane Evans; and H.R. 1048, the Disabled Veterans Adaptive Benefits Improvement Act of 2003, introduced by Honorable Henry E. Brown, Jr., Honorable Ciro D. Rodriguez, Honorable Christopher H. Smith and Honorable Lane Evans on March 4, 2003.

On April 30, 2003, the Subcommittee on Benefits held a hearing on H.R. 1460, the Veterans Entrepreneurship Act of 2003, introduced on March 27, 2003, by Honorable Rick Renzi, Honorable Christopher H. Smith, Honorable Lane Evans, Honorable Henry E. Brown, Jr., Honorable Donald A. Manzullo, Honorable Bob Beauprez, and Honorable Michael H. Michaud; H.R. 1712, the Veterans Federal Procurement Opportunity Act of 2003, introduced on April 10, 2003, by Honorable Lane Evans, Honorable Bob Filner, Honorable Michael H. Michaud, and Honorable Darlene Hooley; and H.R. 1716, the Veterans Earn and Learn Act, introduced on April 10, 2003, by Honorable Christopher H. Smith and Honorable Lane Evans, along with Honorable Henry E. Brown, Jr. and Honorable Michael H. Michaud, Chairman and Ranking Member, respectively, of the Subcommittee on Benefits.

On May 7, 2003, the Subcommittee on Benefits met and unanimously ordered H.R. 241, H.R. 761, H.R. 1460, as amended, and H.R. 1949 reported favorably to the full Committee.

On May 15, 2003, the full Committee met and ordered H.R. 1460 reported favorably, as amended, to the House by unanimous voice vote.

SUMMARY OF THE REPORTED BILL

H.R. 1460, as amended, would:

1. Authorize the use of VA education benefits to pay for non-degree, non-credit entrepreneurship courses at approved institutions.
2. Furnish federal agencies discretionary authority to create “sole-source” contracts for service-disabled veteran-owned small businesses—up to \$5 million for manufacturing contract

- awards and up to \$3 million for non-manufacturing contract awards.
3. Furnish federal agencies discretionary authority to restrict certain contracts to service-disabled veteran-owned small businesses if at least two such concerns are qualified to bid on the contract.
 4. Extend VA's specially adapted housing grant to severely disabled servicemembers prior to separation from active duty service.
 5. Reinstate the Department of Veterans Affairs' vendee loan program.
 6. Repeal current law restricting a surviving spouse or dependent children to receiving no more than two years of accrued benefits if the veteran dies while a claim for VA periodic monetary benefits is being processed.

BACKGROUND AND DISCUSSION

Authorization for State Approving Agencies to approve certain entrepreneurship courses.—Section 2 of the bill would allow veterans, disabled veterans, dependent spouses and children of certain disabled or deceased veterans, and members of the Guard and Reserve to use VA education benefits to enroll in non-degree, non-credit entrepreneurship courses offered by a Small Business Development Center (SBDC) and the National Veterans Business Development Corporation. VA would be prohibited from considering a beneficiary as already qualified for the objective of a program of education offered by a qualified provider of an entrepreneurship course solely because he or she is the owner or operator of a small business.

The Committee notes the testimony of VA Deputy Secretary, Dr. Leo S. Mackay, Jr., as illustrative of support for this provision:

Veterans would receive several benefits from such courses. Some veterans are not willing or able to complete a degree program. This program offers a viable alternative to a complete degree program for those wishing to start a small business. Moreover, veterans who take advantage of these courses are more likely to succeed as small-business entrepreneurs. The potential for positive effects on the economy, with enhanced competition and creativity within the marketplace, is significant.

The Committee also notes the Small Business Administration (SBA) helps fund 1,000 SBDCs in the United States, Puerto Rico, U.S. Virgin Islands, Guam, and American Samoa. SBDCs are operated in partnership with colleges and universities or governmental entities. About 60 percent of SBDCs pre-venture clients go on to start businesses. Small businesses in the last decade accounted for about 70 percent of the new jobs created in our economy. The National Veterans Business Development Corporation also sponsors small business development courses at locations nationwide as part of its outreach program.

Procurement program for small business concerns owned and controlled by service-disabled veterans.—Section 3 of the bill would give federal agency contracting officers the discretionary authority

to create sole source contracts for service-disabled veteran-owned businesses of up to \$5 million for manufacturing other SBA awards and \$3 million for non-manufacturing awards. This section would also furnish contracting officers discretionary authority to restrict certain contracts to service-disabled veteran-owned small businesses if at least two such concerns are qualified to bid on the contract. This provision would not supercede any preferences under law for prison-made (Federal Prison Industries) products or products made by the blind or disabled (Javits-Wagner-O'Day Act). This provision also would not accord service-disabled veterans "priority" over procurement preferences under the SBA 8(a), Women's, or HubZone programs.

The Committee notes the 1999 report of the bipartisan Congressional Commission on Servicemembers and Veterans Transition Assistance recommended that "Special assistance, such as lending opportunities and access to a disadvantaged business development program like SBA's 8(a) program is needed to support disabled veteran entrepreneurs." H.R. 1460, as amended, does *not* make service-disabled veteran-owned small businesses part of the 8(a) program, but it does give them sole source/setaside-type contracting opportunities on a discretionary basis.

The Commission also concluded that, "Disabled-veteran entrepreneurs require additional assistance because these business owners encounter costs and impediments that are not factors for their non-disabled competitors" and "As a matter of fundamental fairness, Congress should accord veterans a full opportunity to participate in the economic system that their service sustains."

Public Law 106-50 created a 3 percent government-wide goal for procurement from service-disabled veteran-owned businesses. Currently, Federal departments and agencies fall far short of this goal. This provision is designed to furnish such organizations additional tools for meeting this goal. The Administration supports such additional tools. Ms. Angela Styles, Administrator, Office of Federal Procurement Policy, testified that such a tool is needed as government-wide implementation of the 3 percent goal has been "abysmal."

The Committee notes the testimony of Mr. Brian E. Lawrence of the Disabled American Veterans, as illustrative of the support for this provision:

For newly established businesses, one contract can be the difference between success and failure. Disabled veterans who successfully establish their own businesses are able to contribute to Federal revenue by paying taxes; disabled veterans who have no options other than to draw VA Individual Unemployability compensation cannot contribute revenue, and Federal spending is increased. From an economic standpoint, it is clearly advantageous to our society to provide disabled veterans sufficient opportunity to become self-employed.

Authorization to provide adapted housing assistance to certain disabled members of the armed forces who remain on active duty.— Section 4 of the bill would allow disabled servicemembers to apply for VA's specially adapted housing grant before being discharged from active duty. VA provides a grant to offset the cost of modi-

fyng a home to accommodate a veteran's disabilities. Under current law, the servicemember may not apply for the grant until he or she is actually discharged from military service or placed on the Temporary Disabled Retirement List. Because the servicemember may not have an accessible place to live upon discharge, he or she may need to extend a hospital stay. Servicemembers who suffer a catastrophic disability while on active duty are eligible to apply for VA's specially adapted automobile grant prior to discharge from military service. This provision would ease the readjustment of these servicemembers to civilian life.

Reinstatement of minimum requirements for sale of vendee loans.—Section 5 of the bill would reinstate the vendee loan program, which VA administratively terminated on January 23, 2003. When a purchaser agrees to buy a foreclosed VA home, VA often offers to finance the sale by establishing a vendee loan to encourage the prompt sale of the home. Vendee loans are made at market interest rates and often require a down payment. Borrowers are assessed a 2.25 percent funding fee.

The vendee loan program is based on sound business principles, and there is an ample body of empirical data indicating that offering vendee financing is cost effective to the government. The Committee views vendee loans as an important tool to obtain a higher return on property sales, which reduces the overall cost of program operations.

Payment of accrued benefits.—Section 6 of the bill would repeal the two-year limitation on accrued benefits so that a veteran's survivor may receive the full amount of the award and not be penalized if VA does not process claims in a timely manner. Current law restricts a surviving spouse to receiving no more than two years of accrued benefits if a veteran dies while a claim for VA periodic monetary benefits (other than insurance and servicemen's indemnity) is being processed. VA is making efforts to lower claims processing times, but it can sometimes take more than two years to correctly determine and adjudicate a claim for disability compensation or nonservice-connected pension benefits, especially when the claim has been appealed to the Board of Veterans' Appeals or the United States Court of Appeals for Veterans Claims.

SECTION-BY-SECTION ANALYSIS

Section 1 would provide that this Act may be cited as the "Veterans Entrepreneurship and Benefits Improvement Act of 2003".

Section 2(a) would amend section 3675 of title 38, United States Code, by adding a new subsection authorizing a State Approving Agency to approve entrepreneurship courses offered by a qualified provider of entrepreneurship courses. This section would also define 'entrepreneurship course' as a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business enterprise. Current law sections 3675(a) and 3675(b)(1) and (2) regarding approval of accredited courses do not apply to an entrepreneurship course offered by a qualified provider of entrepreneurship courses and a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.

Section 2(b) would amend section 3471 of title 38, United States Code, to provide that the Secretary shall not treat a person as already qualified for the objective of a program of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business.

Section 2(c) would amend subsection (b) of section 3452 of title 38, United States Code, by including entrepreneurship courses offered by a qualified provider in the definition of program of education.

Section 2(d) would amend subsection (c) of section 3452 of title 38, United States Code, to include any qualified provider of entrepreneurship courses in the definition of educational institution.

Section 2(e) would further amend section 3452 by defining the term 'qualified provider of entrepreneurship courses' as (1) a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648) and (2) the National Veterans Business Development Corporation (established under section 33 of 15 U.S.C. 657(c)), insofar as the Corporation offers or sponsors an entrepreneurship course (as defined in section 3675(c)(2) of title 38, United States Code).

Section 2(f) would provide that the changes made by this section shall apply to courses approved by State Approving Agencies after the date of the enactment of this Act.

Section 3 would amend the Small Business Act (15 U.S.C. 631 et seq.) by redesignating section 36 as section 37 and by inserting after section 35 a new section 36 establishing a procurement program for small business concerns owned and controlled by service-disabled veterans. New section 36(a) would furnish contracting officers with discretionary authority to award a sole source contract to any small business concern owned and controlled by service-disabled veterans if the following three criteria are met: (1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that two or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity; (2) the anticipated award price of the contract (including options) will not exceed (A) \$5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or (B) \$3,000,000, in the case of any other contract opportunity; and (3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

New section 36(b) would furnish contracting officers the discretionary authority to make contract awards on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than two small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

New section 36(c) would require that not later than five days after the date on which the Administrator is notified of a contracting officer's decision not to award a contract opportunity under this section to a small business concern owned and controlled by service-disabled veterans, the Administrator may notify the con-

tracting officer of the intent to appeal the contracting officer's decision, and within 15 days of such date the Administrator may file a written request for reconsideration of the contracting officer's decision with the Secretary of the department or agency head.

New section 36(d) would require that a procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

New section 36(e) would require that with respect to matters of enforcement and penalties, rules similar to the rules of paragraphs (5) and (6) of section 8(m) shall apply for purposes of this new section.

New section 36(f) would require that for purposes of this section, the term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

Section 4 would amend section 2101 of title 38, United States Code, to provide that the Secretary may provide specially adapted housing assistance to an eligible member of the Armed Forces to the same extent as assistance is provided to eligible veterans.

Section 5(a) would reinstate the minimum requirements for sale of vendee loans. With respect to current law section 3733(a), section 5(a) would strike paragraph (2) and redesignate paragraphs (3), (4), (5), and (6), as paragraphs (2), (3), (4), and (5), respectively. In subparagraph (B)(i) of paragraph (3), as so redesignated, this subsection would strike the words paragraph (5) and insert the words paragraph (4).

Section 5(b) would amend current section 3733(a)(1) of title 38, United States Code, by requiring that not more than 85 percent, nor fewer than 50 percent, of the purchases made during any fiscal year of real property acquired by the Secretary as the result of a defaulted loan, may be financed by a loan made by the Secretary. This section would also strike the current authority to increase to 80 percent the maximum percentage in any fiscal year of real property acquired by the Secretary as a result of loan defaults.

Section 6(a) would repeal the two-year limitation on payment of accrued benefits in subsection (a) of section 5121 of title 38, United States Code.

Section 6(b) would provide that this section take effect with respect to deaths occurring on or after date of enactment of this Act.

PERFORMANCE GOALS AND OBJECTIVES

The reported bill would authorize veterans benefits enhancements and program improvements under laws administered by the Department of Veterans Affairs and the Small Business Administration. Performance goals and objectives are established in their annual performance plans and are subject to the Committee's regular oversight.

STATEMENTS OF THE VIEWS OF THE ADMINISTRATION

DEPARTMENT OF VETERANS AFFAIRS

[April 30, 2003]

COMPLETE STATEMENT OF HONORABLE LEO S. MACKAY, JR., PH.D., DEPUTY SECRETARY OF VETERANS AFFAIRS, BEFORE THE HOUSE COMMITTEE ON VETERANS' AFFAIRS, SUBCOMMITTEE ON BENEFITS

Mr. Chairman and Members of the Subcommittee, thank you for providing me the opportunity to testify before you this morning on three measures affecting Department of Veterans Affairs education and vocational rehabilitation programs and small-business opportunities for veterans. The three bills on today's hearing agenda include: H.R. 1460, the "Veterans Entrepreneurship Act of 2003"; H.R. 1716, the "Veterans Earn and Learn Act"; and H.R. 1712, the "Veterans Federal Procurement Opportunity Act of 2003."

Before I discuss the bills the Subcommittee is considering today, I would like to note that, although the Budget Enforcements Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002, the Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's budget. As you know, these measures would affect direct spending and receipts and, therefore, the support VA expresses for most of the provisions of the bills is contingent on accommodating the provisions within the overall budget submitted by the President.

I note also that, as the number of laudable acquisition preference programs increase, the Government must ensure that it uses insofar as possible open competition among qualified firms, to ensure that the Government acquires through our free market system with taxpayer dollars the best possible goods and services at the lowest possible price.

H.R. 1460—"VETERANS ENTREPRENEURSHIP ACT OF 2003"

Mr. Chairman, section 2 of H.R. 1460 would amend provisions of title 38, United States Code, to permit veterans to use VA educational assistance benefits to enroll in non-degree, non-credit business "entrepreneurship" courses offered by small business development centers or offered by the National Veterans Small Business Development Corporation. Specifically, section 2 of the bill would provide that State Approving Agencies may approve non-credit courses of business education that enable or assist persons to start or enhance small business enterprises. "Qualified providers" of such entrepreneurship courses would include small business development centers, as defined by section 21 of the Small Business Act, and the National Veterans Business Development Corporation. A person would not be considered by VA as already qualified for the objective of a program of education offered by a qualified provider of an entrepreneurship course solely because he or she is the owner or operator of a business. These amendments apply to courses approved by State approval agencies after the date of enactment of the Act.

Veterans would receive several benefits from such courses. Some veterans are not willing or able to complete a degree program. This program offers a viable alternative to a complete degree program for those wishing to start a small business. Moreover, veterans who take advantage of these courses are more likely to succeed as small-business entrepreneurs. The potential for positive effects on the economy, with enhanced competition and creativity within the marketplace, is significant. The bill's provision for oversight of these courses by State Approving Agencies should ensure program quality. While we support the goals of this provision, it is not included in the President's Budget and an offset would have to be found. We will be pleased to work with the Subcommittee to find an offset for this important provision.

Enactment of this section would result in an estimated cost of \$1.5 million in fiscal year 2004 and a ten-year total cost of \$32 million.

Section 3 of H.R. 1460 would amend 38 U.S.C. § 3104 to provide that, for purposes of pursuing a program of vocational rehabilitation under chapter 31 of title 38, United States Code, a disabled veteran may establish "self-employment" in a small business enterprise as a vocational goal without regard to any requirement of unemployment.

Current law permits us to serve veterans with serious service-connected disabilities who require self employment and/or homebound training in order to achieve an acceptable level of vocational rehabilitation. We are also able to provide limited assistance to other veterans with employment handicaps.

Mr. Chairman, last month the Department established a new advisory committee, the Vocational Rehabilitation and Employment (VR&E) Task Force, and charged it

with conducting an independent review of the VR&E program. Among other responsibilities, it will evaluate eligibility criteria for vocational rehabilitation services under VA's program, and report its recommendations to the Secretary. We are asking the Task Force to evaluate the change in law proposed by section 3 of H.R. 1460, and will be furnishing you our official views once we have the benefit of that advice.

Enactment of this section would result in a cost of \$750,000 in fiscal year 2004 and a ten-year total cost of \$101 million.

Section 4 of H.R. 1460 would authorize a contracting officer to make sole source awards to small business concerns owned and controlled by service-disabled veterans (SDVBs) if such business is determined to be capable of performing the contract, award can be made at a fair price, there is no reasonable expectation that two or more SDVBs would submit offers, and certain dollar thresholds are not exceeded. It would also authorize contracting officers to restrict competition to SDVBs if there is a reasonable expectation that at least two SDVBs will submit offers and award can be made at a fair market price. The Administrator of the Small Business Administration would have the authority to appeal contracting officers' decisions not to award a contract opportunity to SDVBs to the Secretary of the department or agency head. This law would not supercede any other preference under law for prison-made (Federal Prison Industries) products or products made by the blind or disabled (JWOD).

The provision of a set-aside is an unusually strong measure that inhibits open market functioning. It is only appropriate in this instance due to the singular worthiness of service-disabled veterans for preferential treatment. Its use here would not be meant to establish a general precedent.

VA supports section 4 of H.R. 1460. Providing these veterans business opportunities is altogether consistent with VA's mission to serve our Nation's veterans and will help VA and the Nation honor its commitment to them.

We estimate the total cost associated with enactment of H.R. 1460 to be \$2.25 million for fiscal year 2004 and \$133 million over ten years.

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DEPARTMENT OF VETERANS AFFAIRS

[April 10, 2003]

COMPLETE STATEMENT OF DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, BEFORE THE SUBCOMMITTEE ON BENEFITS, HOUSE COMMITTEE ON VETERANS' AFFAIRS

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on several bills of great interest to veterans.

H.R. 241

H.R. 241, the "Veterans Beneficiary Fairness Act of 2003," would eliminate a discrepancy regarding the limitation on the period for which retroactive benefits due and unpaid a claimant may be paid to others after the claimant's death. In the interest of fairness, we support enactment of this bill.

Under 38 U.S.C. § 5121, periodic monetary benefits to which an individual was entitled at death under existing ratings or decisions or based on evidence on file with the Department of Veterans Affairs (VA) at the time of death are paid upon the death of the individual to specified classes of survivors according to a prescribed order of preference. Prior to a recent court decision, VA had construed section 5121 to limit the payment of any benefits under that section to the retroactive period specified in the statute, regardless of whether the payment was based on an existing rating or decision or on evidence on file at the date of death. The retroactive payment period, originally one year, was extended to two years by Public Law 104-275, the "Veterans' Benefits Improvements Act of 1996."

On December 10, 2002, the United States Court of Appeals for Veterans Claims (CAVC) issued its decision in *Bonny v. Principi*, 16 Vet. App. 504 (2002). In that decision, the court held that 38 U.S.C. § 5121(a) specifies two kinds of benefits: benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual's death, and benefits that could be awarded based on evidence in the file at the time of death. The court held that, in the case of the first type of benefits, the statute requires that an eligible survivor is to receive the entire amount of the award; only the latter type of "accrued" benefits is subject to the two-year limitation in 38 U.S.C. § 5121(a). The court based its interpretation of the statute primarily on the punctuation of section 5121(a).

The CAVC's *Bonny* decision has resulted in differing entitlements under section 5121 based on the status of the deceased's claim at the time of his or her death.

H.R. 241 would eliminate this distinction by amending section 5121 to eliminate the two-year limitation on payment of retroactive benefits for all classes of beneficiaries under that statute.

The distinction the Bonny decision draws between the two categories of claimants—those whose claims had been approved and those whose entitlement had yet to be recognized when they died—is really one without a difference. In either case, a claimant’s estate is deprived of the value of benefits for which he or she was, in life, eligible. H.R. 241 would remove this inequitable distinction, and we support its enactment.

We estimate the cost of complying with the Bonny decision for fiscal year (FY) 2004 to be \$1.7 million and \$18.2 million for the period FY 2004 through FY 2013. We estimate the incremental cost to implement H.R. 241, that is, the difference between the cost of complying with the court’s decision and the cost of enactment of H.R. 241, to be \$5.9 million for FY 2004 and \$65.8 million for the period FY 2004 through FY 2013.

In addition, we note one technical change needed in H.R. 241 should it be enacted. The comma in current section 5121(a) following “existing ratings or decisions” should be deleted to clarify, for purposes of 38 U.S.C. §§ 5121(b) and (c) and 5122, that the term “accrued benefits” includes both benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual’s death, as well as benefits that could be awarded based on evidence in the veteran’s file at the time of death.

* * * * *

H.R. 761

Mr. Chairman, you also requested our comments on two proposals that would affect the Specially Adapted Housing program authorized by chapter 21 of title 38, United States Code. Under current law, veterans who are entitled to compensation for certain permanent and total service-connected disabilities described in section 2101 of title 38 are eligible for a grant to adapt their homes with features made necessary by the nature of their disabilities.

The first proposal, Mr. Chairman, is H.R. 761, the “Disabled Servicemembers Adapted Housing Assistance Act of 2003,” which would permit VA to provide Specially Adapted Housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation. VA favors enactment of H.R. 761.

This bill would permit members of the Armed Forces with the service-connected disabilities described in section 2101 to apply for Specially Adapted Housing benefits and permit VA to process their applications and award benefits without having to wait for the servicemembers to be released from active duty. H.R. 761 could provide some affected veterans the opportunity to move into an adapted home as soon as they are separated from active duty, or at least much sooner than is possible under current law. With this accelerated determination of eligibility and assistance, veterans could avoid continued institutional care, thus improving their quality of life and increasing their independence. This could also reduce the cost to VA of in-patient healthcare for some affected veterans.

Because Specially Adapted Housing grants are a one-time-only benefit, the enactment of this measure should not materially increase either the total number of grants provided under this program or the dollar amount of such grants. Rather, H.R. 761 would merely accelerate the payment of this benefit to certain individuals who, under current law, would become entitled to the same benefit upon their release from active duty. Accordingly, VA estimates that the enactment of H.R. 761 would produce insignificant costs or savings.

* * * * *

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, May 19, 2003

Hon. CHRISTOPHER H. SMITH
 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. 1460, the Veterans Entrepreneurship and Benefits Improvement Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah T. Jennings, who can be reached at 226-2840.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
 Director

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1460, Veterans Entrepreneurship and Benefits Improvement Act of 2003

As ordered reported by the House Committee on Veterans' Affairs on May 15, 2003

SUMMARY

H.R. 1460 would affect several veterans programs, including housing, education, and compensation. H.R. 1460 would also amend the Small Business Act by establishing a specific set-aside preference for service-disabled, veteran-owned small businesses.

Provisions in H.R. 1460 would both increase and decrease direct spending. Taken together, CBO estimates that enacting this legislation would reduce net direct spending for veterans benefits by \$66 million in 2004, about \$180 million over the 2004-2008 period, and about \$340 million over the 2004-2013 period. In addition, CBO estimates that implementing H.R. 1460 would cost less than \$500,000 a year over the 2004-2008 period, assuming the availability of appropriated funds.

H.R. 1460 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 1460 is shown in Table 1. The costs of this legislation fall within budget functions 700 (veterans benefits and services) and 800 (general government).

TABLE 1. ESTIMATED BUDGETARY IMPACT OF H.R. 1460 (By fiscal year, in millions of dollars)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
	CHANGES IN DIRECT SPENDING										
Estimated Budget Authority	0	-66	-32	-24	-26	-29	-30	-31	-33	-32	-34
Estimated Outlays	0	-66	-32	-24	-26	-29	-30	-31	-33	-32	-34

BASIS OF ESTIMATE

DIRECT SPENDING

The legislation would affect direct spending in veterans' programs for housing, education, and compensation. Table 2 summarizes those effects, and the individual provisions that would affect direct spending are described below.

TABLE 2. ESTIMATED CHANGES IN DIRECT SPENDING FOR VETERANS' BENEFITS UNDER H.R. 1460 (Outlays, by fiscal year, in millions of dollars)

Description of Provision	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
	CHANGES IN DIRECT SPENDING										
Vendee Loan Program	0	-68	-34	-26	-28	-31	-32	-33	-35	-34	-36
Entrepreneurship Courses	0	1	1	1	1	1	1	1	1	1	1
Accrued Benefits	0	1	1	1	1	1	1	1	1	1	1
Adapted Housing	0	*	*	*	*	*	*	*	*	*	*
Total Changes in Veterans' Benefits	0	-66	-32	-24	-26	-29	-30	-31	-33	-32	-34

* less than \$500,000.

VENDEE LOAN PROGRAM. Section 5 would reinstate the vendee home loan program which was discontinued by the Department of Veterans Affairs (VA) on January 31, 2003. Before that date, when a veteran defaulted on his mortgage and the home went into foreclosure, VA often acquired the property and issued a new direct loan when the property was sold. These loans are called vendee loans. CBO estimates that reinstating the program would save VA roughly \$35 million a year over the 2004–2013 period. Higher savings in 2004 result from lower interest rate assumptions for that year compared to those projected for the 2005–2013 period. The bill also would require VA to finance between 50 percent and 85 percent of such sales through the vendee loan program. Before the program was terminated, VA financed roughly 60 percent of such sales with vendee financing and CBO estimates that it would continue to do so under the bill. The estimated savings for this provision is the net effect of three individual program effects (two with savings and one with costs), as explained below.

Based on historical data, CBO estimates that under the bill roughly 14,000 vendee loans would be made each year with an average loan amount of \$98,000. Vendee loans lower the subsidy cost of the VA home loan program in two ways. First, VA receives more

money for homes sold with vendee financing than those sold with other financing (16 percent more in 2002). Since the proceeds from these home sales are considered recoveries of losses from the guaranteed loans that were foreclosed, enacting this section would increase recoveries and therefore lower subsidy costs in the guaranteed loan portfolio. CBO estimates that VA would save an average of \$68 million a year in guaranteed loan subsidies over the 2004–2013 period. Second, because vendee loans have lower prepayment and default rates than other direct loans made by VA, this provision also would lower subsidy costs for direct loans by an average of \$28 million a year over the 2004–2013 period.

Finally, before the program was terminated in 2003, VA sold most vendee loans on the secondary mortgage market and guaranteed their timely repayment; CBO estimates that it would continue to do so under the bill. Based on historical data, CBO estimates that VA would sell an average of \$1.2 billion in vendee loans annually, at a subsidy cost of roughly \$60 million a year.

ENTREPRENEURSHIP COURSES. Section 2 would allow eligible veterans, survivors, and dependents to receive education benefits for entrepreneurship courses offered by a Small Business Development Center (SBDC) or by the National Veterans Business Development Corporation, also known as The Veterans Corporation.

According to the Small Business Administration, 17,581 veterans received training from SBDCs in fiscal year 2001. The SBDCs offer a number of courses for individuals who own or are interested in starting a small business, generally at little or no cost. Based on analysis of the available courses and tuition, CBO estimates that about 3,000 veterans, survivors, and dependents who are eligible for veterans' education benefits would each take three courses a year with an average tuition of \$45 each, and that the tuition would increase with inflation.

In the Veterans Entrepreneurship and Small Business Development Act of 1999 (Public Law 106–50), the Congress established The Veterans Corporation, a federally chartered corporation, tasked to assist veterans with the formation and expansion of small business concerns. The Veterans Corporation began offering entrepreneurship classes to veterans this year, and they intend to enroll 1,500 veterans in 2004 and 3,000 veterans in 2005. Tuition for the course is currently \$350, and CBO expects it will increase with inflation to about \$445 by 2013. Because education benefits usually expire 10 years after separating from military service, CBO expects that less than half of these students would be eligible for veterans education benefits.

Taken together, CBO expects that, under section 2, the SBDCs and The Veterans Corporation would train about 5,000 veterans, survivors and dependents a year who are eligible for education benefits from the VA. We estimate the annual cost for this training would be about \$1 million.

ACCRUED BENEFITS. Section 6 would eliminate the two-year limit on accrued benefits payable to eligible survivors of veterans who die while VA is processing their claims for disability compensation. Under current law, when an individual applies for benefits administered by VA, any benefits that are awarded are paid retroactive to the date of application. If the applicant dies before receiving his

or her retroactive benefits, certain survivors can apply to receive up to two years worth of the unpaid benefits. VA refers to these benefits that are due but unpaid to deceased applicants as “accrued benefits.”

Before December 2002, VA applied the two-year limit on accrued benefits to all cases in which the applicant died before receiving payment. On December 10, 2002, the United States Court of Appeals for Veterans Claims (CAVC) decided in *Bonny v. Principi* that the two-year limit applies differently to the following two groups:

- Applicants who die before VA makes the final decision on the application, and
- Applicants who die after VA makes the final decision on the application but before receiving payment.

CAVC ruled that if the applicant dies before receiving payment but after VA approves the claim, eligible survivors are due the entire amount of the award due to the applicant.

Eligible survivors of applicants who die during the processing of the claim but before VA makes a final decision, however, are eligible for only two years of accrued benefits.

Section 6 would eliminate the two-year limit on accrued benefits for all eligible survivors, regardless of whether VA has made a final decision on the claim. Based on information provided by VA, CBO estimates that VA awards accrued benefits payments to about 3,700 survivors a year and that, under current law (reflecting the *Bonny* decision), about 18 percent or 670 of these cases would be paid the full amount. Based on information provided by VA, CBO estimates that no more than 10 percent of the roughly 3,000 remaining accrued benefits payments would reflect more than two years of unpaid benefits.

VA only tracks data on the number of claims processed for accrued benefits payments and is unable to identify the number of claims it approves; whether these claims are for disability compensation, veterans pension, or other veterans’ income security benefits; or the amount of the average payment. Absent this information, CBO assumes that all accrued benefits payments would be for veterans disability compensation because the majority of applications for VA benefits are for such payments. We also assume that all accrued benefits would be paid at an average disability rating of 30 percent, consistent with average benefit payments for new compensation cases, and that, on average, these 300 cases would receive an extra six months worth of payments.

According to data provided by VA, in 2002 the average annual compensation payment for a disability rating of 30 percent was \$4,092. Such payments are adjusted annually for increases in the cost of living. Thus, CBO estimates that enacting H.R. 1460 would increase direct spending for compensation benefits by less than \$1 million in 2004, \$3 million over the 2004–2008 period, and \$7 million over the 2004–2013 period.

ADAPTED HOUSING. Section 4 would allow severely disabled members of the armed forces to receive specially adapted housing grants from VA while still on active duty. CBO estimates that enacting this provision would increase direct spending for veterans readjustment benefits by less than \$500,000 in 2004.

VA currently administers two grant programs to assist severely disabled veterans in acquiring housing that is adapted to their disabilities, or in modifying their existing housing. Under current law, veterans who are classified by the VA as totally disabled and who have certain mobility limitations are entitled to receive housing grants of up to \$48,000. Totally disabled veterans who are blind or have lost the use of their hands are entitled to receive grants of up to \$9,250. Section 4 would allow similarly disabled servicemembers, on active duty pending a medical separation, to receive these grants.

Data from VA indicates that about 180 servicemembers separate from the armed services each year with disabilities the VA rates as totally disabling. Based on information from VA about the number of totally disabled veterans receiving these grants, CBO estimates that about 20 servicemembers a year typically apply for and receive housing grants averaging \$37,000 shortly after they separate from the service. According to the Department of Defense, servicemembers typically remain on active duty about four to six months pending a medical separation. CBO expects that being able to apply for and potentially receive the adapted housing grants during that time period would allow about half of these servicemembers to receive the grants one fiscal year earlier than they would have otherwise. Thus, CBO estimates that about \$370,000 in outlays for readjustment benefits that would have occurred in 2005 would, under H.R. 1460, occur in 2004. We also estimate that the net effect on outlays over the 2005–2013 period would be negligible because we estimate that outlays of roughly that same amount that would have occurred in 2006 and subsequent years would also now occur one fiscal year earlier offsetting the reduction in outlays in 2005 and subsequent years caused by shifting outlays forward.

SPENDING SUBJECT TO APPROPRIATION

Section 3 would establish conditions that federal contracting officers may use to award sole service contracts or restrict competition for contracts if a small business that is owned and controlled by a service-disabled veteran is capable of performing a contract. CBO expects that agencies would incur additional administrative costs for contracting officers to consider such small businesses for contracts, but we estimate that these administrative costs would be less than \$500,000 annually.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 1460 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

PREVIOUS CBO ESTIMATE

CEO prepared estimates for two bills that are similar or identical to provisions in H.R. 1460. On March 20, 2003, CBO transmitted a cost estimate for H.R. 241, the Veterans Beneficiary Fairness Act of 2003, as introduced on January 8, 2003, which is identical to section 6 of H.R. 1460. On April 9, 2003, CBO transmitted an estimate for H.R. 761, the Disabled Servicemembers Adapted Housing Assistance Act of 2003, as introduced on February 13, 2003, which is

identical to section 4 of H.R.1460. The cost estimates for sections 6 and 4 are identical to those for H.R. 241 and H.R. 761, respectively.

ESTIMATE PREPARED BY:

Federal Costs:

Compensation: Melissa E. Zimmerman (226-2840)

Education Benefits: Sarah T. Jennings (226-2840)

Housing: Sunita D'Monte (226-2840)

General Government: Matthew Pickford (226-2860)

Impact on State, Local, and Tribal Governments: Gregory Warring (225-3220)

Impact on the Private Sector: Carla Tight Murray (226-2900)

ESTIMATE APPROVED BY:

Peter H. Fontaine

Deputy Assistant Director for Budget Analysis

STATEMENT OF FEDERAL MANDATES

The preceding Congressional Budget Office cost estimate states that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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 II—GENERAL BENEFITS

* * * * *

**CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR
DISABLED VETERANS**

* * * * *

§ 2101. Veterans eligible for assistance

(a) * * *

* * * * *

(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suf-

fering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under such subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 34—VETERANS’ EDUCATIONAL ASSISTANCE

* * * * *

SUBCHAPTER I—PURPOSE; DEFINITIONS

* * * * *

§ 3452. Definitions

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

(a) * * *

(b) The term “program of education” means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field. Such term also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 7(i)(1) of the Small Business Act (15 U.S.C. 636(i)(1)). Such term also includes licensing or certification tests, the successful completion of which demonstrates an individual’s possession of the knowledge or skill required to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession, provided such tests and the

licensing or credentialing organizations or entities that offer such tests are approved by the Secretary in accordance with section 3689 of this title. *Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses.*

(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 term includes any entity that provides training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary). Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary). *Such term also includes any qualified provider of entrepreneurship courses.*

* * * * *

(h) *The term “qualified provider of entrepreneurship courses” means—*

(1) *a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), and*

(2) *the National Veterans Business Development Corporation (established under section 33 of such Act (15 U.S.C. 657c)) insofar as the Corporation offers or sponsors an entrepreneurship course (as defined in section 3675(c)(2) of this title).*

* * * * *

SUBCHAPTER III—ENROLLMENT

* * * * *

§ 3471. Applications; approval

Any eligible veteran, or any person on active duty (after consultation with the appropriate service education officer), who desires to initiate a program of education under this chapter shall submit an application to the Secretary which shall be in such form, and contain such information, as the Secretary shall prescribe. The Secretary shall approve such application unless the Secretary finds that (1) such veteran or person is not eligible for or entitled to the educational assistance for which application is made, (2) the veteran’s or person’s selected educational institution or training establishment fails to meet any requirement of this chapter or chapter 36 of this title, (3) the veteran’s or person’s enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter or chapter 36 of this title, or (4) the veteran or person is already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered. *The Secretary shall not treat a person as already qualified for the objective of a program*

of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business. The Secretary shall notify the veteran or person of the approval or disapproval of the veteran's or person's application.

* * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

* * * * *

SUBCHAPTER I—STATE APPROVING AGENCIES

* * * * *

§ 3675. Approval of accredited courses

(a) * * *

* * * * *

(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

(2) For purposes of this subsection, the term "entrepreneurship course" means a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business enterprise.

(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) do not apply to—

(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.

* * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

* * * * *

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

* * * * *

§ 3733. Property management

(a)(1) Of the number of purchases made during any fiscal year of real property acquired by the Secretary as the result of a default on a loan guaranteed under this chapter for a purpose described in section 3710(a) of this title, not more than **[65]** 85 percent, nor less than 50 percent, of such purchases may be financed by a loan made by the Secretary. **[The maximum percentage stated in the preceding sentence may be increased to 80 percent for any fiscal year if the Secretary determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.]**

[(2) After September 30, 1990, the percentage limitations described in paragraph (1) of this subsection shall have no effect.]

[(3)] (2) The Secretary may, beginning on October 1, 1990, sell any note evidencing a loan referred to in paragraph (1)—

(A) * * *

* * * * *

[(4)] (3)(A) Except as provided in subparagraph (B) of this paragraph, the amount of a loan made by the Secretary to finance the purchase of real property from the Secretary described in [paragraph (1) of this subsection] *paragraph (1)* may not exceed an amount equal to 95 percent of the purchase price of such real property.

(B)(i) The Secretary may waive the provisions of subparagraph (A) of this paragraph in the case of any loan described in [paragraph (5) of this subsection] *paragraph (4)*.

* * * * *

[(5)] (4) The Secretary may include, as part of a loan to finance a purchase of real property from the Secretary described in [paragraph (1) of this subsection] *paragraph (1)*, an amount to be used only for the purpose of rehabilitating such property. Such amount may not exceed the amount necessary to rehabilitate the property to a habitable state, and payments shall be made available periodically as such rehabilitation is completed.

[(6)] (5) The Secretary shall make a loan to finance the sale of real property described in [paragraph (1) of this subsection] *paragraph (1)* at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Secretary determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans Housing Benefit Program Fund established by section 3722(a) of this title.

* * * * *

(c)(1) * * *

(2) The Secretary shall include a summary of the information compiled, and the Secretary's findings, under [paragraph (1) of this subsection] *paragraph (1)* in the annual report submitted to the Congress under section 529 of this title. As part of such summary and findings, the Secretary shall provide a separate analysis of the factors which contribute to foreclosures of loans which have been assumed.

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * *

CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

* * * * *

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 (hereinafter in this section and section 5122 of this title referred to as "accrued benefits") and due and unpaid [for a period not to exceed two years], shall, upon the death of such individual be paid as follows:

(1) * * *

* * * * *

SMALL BUSINESS ACT

* * * * *

SEC. 36. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

(a) *SOLE SOURCE CONTRACTS.*—In accordance with this section and not withstanding any other provision of law, a contracting officer may award a sole source contract to any small business concern owned and controlled by service-disabled veterans if—

(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

(2) the anticipated award price of the contract (including options) will not exceed—

(A) \$5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

(B) \$3,000,000, in the case of any other contract opportunity; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

(b) *RESTRICTED COMPETITION.*—In accordance with this section and not withstanding any other provision of law, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

(c) *APPEAL BY ADMINISTRATOR.*—Not later than 5 days after the date on which the Administration is notified of a contracting officer's decision not to award a contract opportunity under this section to a small business concern owned and controlled by service-disabled veterans, the Administrator may notify the contracting officer of the intent to appeal the contracting officer's decision, and within 15 days of such date the Administrator may file a written request

for reconsideration of the contracting officer's decision with the Secretary of the department or agency head.

(d) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

(e) ENFORCEMENT; PENALTIES.—Rules similar to the rules of paragraphs (5) and (6) of section 8(m) shall apply for purposes of this section.

(f) CONTRACTING OFFICER.—For purposes of this section, the term "contracting officer" has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

SEC. [36.] 37. All laws and parts of laws inconsistent with this Act are hereby repealed to the extent of such inconsistency.

