

112TH CONGRESS
1ST SESSION

H. R. 3167

To direct the Secretary of Veterans Affairs to establish a program under which certain veterans entitled to educational assistance under the laws administered by the Secretary can use such entitlement to start or purchase a qualifying business enterprise, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2011

Mr. FORTENBERRY introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committees on Small Business and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Veterans Affairs to establish a program under which certain veterans entitled to educational assistance under the laws administered by the Secretary can use such entitlement to start or purchase a qualifying business enterprise, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans Entrepre-
5 neurial Transition Act of 2011” or the “VET Act of
6 2011”.

1 **SEC. 2. ESTABLISHMENT OF SMALL BUSINESS PROGRAM.**

2 The Secretary of Veterans Affairs shall establish a
3 program under which the Secretary shall allow eligible vet-
4 erans to participate in the program described under sec-
5 tion 3.

6 **SEC. 3. VETERANS SMALL BUSINESS ENTREPRENEURSHIP**
7 **PROGRAM.**

8 (a) ESTABLISHMENT.—The Secretary of Veterans
9 Affairs shall, in consultation with the Administrator of the
10 Small Business Administration, establish a program (here-
11 inafter in this Act referred to as “the Program”) under
12 which the Secretary may approve an eligible veteran to
13 use Program benefits to start or acquire a qualifying busi-
14 ness enterprise.

15 (b) AMOUNT AND PAYMENT OF BENEFITS.—

16 (1) IN GENERAL.—Under the Program, the
17 Secretary shall provide for an eligible veteran to use
18 the veteran’s entitlement to educational assistance
19 under chapter 30 or 33 of title 38, United States
20 Code, in accordance with this Act.

21 (2) AMOUNT.—

22 (A) IN GENERAL.—The maximum amount
23 of benefits made available to a veteran under
24 the Program shall not exceed the maximum
25 value of—

1 (i) in the case of a veteran entitled to
2 educational assistance under chapter 33 of
3 title 38, United States Code, the amount
4 equal to 36 months of educational assist-
5 ance at the rate in effect under section
6 3313(c)(ii)(II) of such title; and

7 (ii) in the case of a veteran entitled to
8 educational assistance under chapter 30 of
9 such title, the amount equal to 36 months
10 of educational assistance at the rate in ef-
11 fect under section 3015(a)(1) of such title.

12 (B) CHARGE TO ENTITLEMENT.—A vet-
13 eran who receives a payment under the Pro-
14 gram shall be charged for 36 months of the vet-
15 eran's entitlement to educational assistance
16 under chapter 30 or 33 of title 38, United
17 States Code.

18 (3) PAYMENT.—Payments to eligible veterans
19 under the Program shall be made as follows:

20 (A) In the case of a veteran who is using
21 the funds to start a new business enterprise,
22 payment shall be made in not less than two
23 lump-sum amounts, the first of which shall not
24 exceed \$2,500, to be used for the development

1 of the business plan, and the balance to be paid
2 upon the approval of the business plan.

3 (B) In the case of a veteran who is using
4 the funds to purchase an existing business en-
5 terprise or franchise business enterprise, pay-
6 ment shall be made in one lump-sum amount.

7 (C) In the case of a veteran who is using
8 the funds to purchase capital equipment, dura-
9 ble expense items, or professional services that
10 the Secretary determines are essential to oper-
11 ating a qualifying business, payment shall be
12 made in one or more lump-sum amounts.

13 (c) ELIGIBILITY.—An individual shall be an eligible
14 veteran for purposes of the Program if that individual—

15 (1) is a veteran;

16 (2) has completed at least—

17 (A) 36 months of full-time active duty
18 service in the Armed Forces; or

19 (B) 24 months of full-time active duty
20 service in the Armed Forces before being dis-
21 charged or separated for a service-connected
22 disability, as that term is defined in section 101
23 of title 38, United States Code;

1 (3) is entitled to 36 months of educational as-
2 sistance under chapter 30 or 33 of title 38, United
3 States Code;

4 (4) has last been discharged or separated from
5 active duty service in the Armed Forces not more
6 than 15 years before submitting an application to
7 participate in the Program; and

8 (5) submits to the Secretary an application, in
9 such form and containing such information as the
10 Secretary may require, including the information de-
11 scribed in subsection (f).

12 (d) USE OF PROGRAM BENEFITS.—An eligible vet-
13 eran participating in the Program may use the Program
14 benefits—

15 (1) in accordance with such limitations as the
16 Secretary, in consultation with the Administrator,
17 may by rule establish; and

18 (2) for such purposes related to starting or ac-
19 quiring a qualifying business enterprise as the Sec-
20 retary, in consultation with the Administrator, deter-
21 mines appropriate, including—

22 (A) purchasing goods or services necessary
23 for the operation, expansion, or startup of a
24 qualifying business enterprise;

1 (B) funding a project that is directed to-
2 ward any economic development objective de-
3 scribed under section 501(d) of the Small Busi-
4 ness Investment Act of 1958;

5 (C) attending an entrepreneurship readi-
6 ness program approved by the Secretary and
7 designed to prepare the veteran for, and lead to
8 the immediate subsequent ownership and man-
9 agement by the veteran of, a qualifying busi-
10 ness enterprise; and

11 (D) acquiring a qualifying business enter-
12 prise.

13 (e) QUALIFYING BUSINESS ENTERPRISES.—The Sec-
14 retary, in consultation with the Administrator, shall by
15 rule establish a list of categories of business enterprises
16 that the Secretary determines to be “qualifying business
17 enterprises” for purposes of the Program, including the
18 following:

19 (1) A small business concern (as such term is
20 defined in section 3(a) of the Small Business Act).

21 (2) Franchise business enterprises.

22 (3) Existing business enterprises in which the
23 eligible veteran has an ownership stake.

24 (4) Any other business enterprise the Secretary,
25 in consultation with the Administrator, determines

1 appropriate and in accordance with the purposes of
2 the Program.

3 (f) DOCUMENTATION REQUIREMENTS.—The Sec-
4 retary, in considering an application from an eligible vet-
5 eran, may not approve that application unless that appli-
6 cation includes the following:

7 (1) A description of the use of the Program
8 benefits, including an identification and description
9 of the qualifying business enterprise.

10 (2) A certification that the eligible veteran ap-
11 plying to participate in the Program shall complete
12 such education and training relevant to the owner-
13 ship and operation of the qualifying business enter-
14 prise as the Secretary determines appropriate, in-
15 cluding, in the case of a startup, a Small Business
16 Development Center program (as described in sec-
17 tion 21 of the Small Business Act) designed to re-
18 sult in the completion of a business plan for the
19 qualifying business enterprise.

20 (3) With regard to each category of qualifying
21 business enterprise (as established in the list de-
22 scribed in subsection (e)), such certifications as the
23 Secretary, in consultation with the Administrator,
24 shall by rule require, including—

1 (A) in the case of a business enterprise al-
2 ready in operation at the time of the applica-
3 tion, such evidence as the Secretary, in con-
4 sultation with the Administrator, determines
5 appropriate of—

6 (i) good standing;

7 (ii) profitable operation; and

8 (iii) guarantees pertaining to the pur-
9 chase of the enterprise;

10 (B) in the case of a franchise business en-
11 terprise, such evidence as the Secretary, in con-
12 sultation with the Administrator, determines
13 appropriate of—

14 (i) compliance with applicable State
15 and Federal laws on franchises;

16 (ii) training in conformation with the
17 industry standard; and

18 (iii) an acceptably low loan failure
19 rate of similarly situated business enter-
20 prises for loans guaranteed under the
21 Small Business Act; and

22 (C) in the case of a business enterprise
23 that is a startup, or that is otherwise not in op-
24 eration at the time of the application—

1 (i) a business plan for the operation
2 of that enterprise, prepared with the as-
3 sistance of any agency that the Secretary
4 determines appropriate, that leads to prof-
5 itable operation within a reasonable time
6 frame, and that includes such other infor-
7 mation as the Secretary, in consultation
8 with the Administrator, determines appro-
9 priate; or

10 (ii) a business plan approved by a per-
11 son designated by the Secretary, in con-
12 sultation with the Administrator, from
13 among—

14 (I) any department or agency of
15 the Federal government;

16 (II) an institution or higher
17 learning; or

18 (III) a non profit enterprise.

19 **SEC. 4. USE OF BENEFITS IN QUALIFYING FOR SMALL BUSI-**
20 **NESS LOANS AND FARM LOAN.**

21 (a) **SMALL BUSINESS LOANS.**—In determining the
22 creditworthiness of a veteran for a loan guaranteed by the
23 Administrator under the Small Business Act, all benefits
24 made available to the veteran under the program estab-
25 lished under section 3 shall be taken into account.

1 (b) FARM LOANS.—In determining the creditworthi-
2 ness of a veteran for a loan made or guaranteed pursuant
3 to the Consolidated Farm and Rural Development Act, the
4 Secretary of Agriculture shall take into account all bene-
5 fits made available to the veteran under the program es-
6 tablished under section 3.

7 **SEC. 5. SURVIVORS' BENEFITS.**

8 (a) IN GENERAL.—In the event that a veteran who
9 has received more than \$2,500 in benefits under this Act
10 dies before receiving the balance of any benefits payable
11 to the veteran under this Act, the Secretary may pay any
12 benefits approved to be paid to the veteran to a survivor
13 of the veteran who is designated by the veteran for such
14 purpose.

15 (b) LIMITATION ON SURVIVOR ELIGIBILITY.—To be
16 eligible to be a survivor of a veteran for purposes of this
17 section, an individual must be at least 18 years of age
18 at the time of death of the veteran and must have inher-
19 ited the business from the veteran at the time of the vet-
20 eran's death.

21 (c) PERIOD OF SURVIVOR ELIGIBILITY.—The period
22 during which a survivor of a veteran is eligible to receive
23 benefits under this section is the greater of—

24 (1) the five-year period beginning on the date
25 of the veteran's death; or

1 (2) the period beginning on the date of the vet-
2 eran's death and ending upon the termination of the
3 longest term of any business loan obtained by the
4 veteran before the veteran's death for the business
5 enterprise for which the veteran received benefits
6 under this Act.

7 (d) LIMITATION ON USE OF FUNDS TO SECURE
8 LOANS.—A survivor of a veteran who receives benefits
9 under this section may not use the benefits to secure any
10 new loan.

11 (e) DUPLICATION OF BENEFITS.—If the survivor of
12 a veteran who receives benefits under this section is also
13 eligible to receive benefits under section 3, the survivor
14 may not use benefits payable under section 3 for a busi-
15 ness enterprise other than the business enterprise for
16 which the veteran receives benefits under this section. The
17 survivor may use benefit payable to the survivor under sec-
18 tion 3 to affect the transfer into the survivor's name of
19 100 percent of the assets, liabilities, and operations of the
20 business enterprise for which the veteran receives benefits
21 under this section.

22 **SEC. 6. DEFINITIONS.**

23 In this Act:

24 (1) The term "Secretary" means the Secretary
25 of Veterans Affairs.

1 (2) The term “Administrator” means the Ad-
2 ministrators of the Small Business Administration.

3 (3) The term “veteran” has the meaning given
4 that term in section 101 of title 38, United States
5 Code.

6 (4) The term “institution of higher learning”
7 has the meaning given such term in 3452(f) of title
8 38, United States Code.

9 (5) The term “Program benefits” means pay-
10 ments described in section 3.

11 (6) The term “franchise business enterprise”
12 means any continuing commercial relationship or ar-
13 rangement, whatever it may be called, in which the
14 terms of the offer or contract specify, or the fran-
15 chise seller promises or represents, orally or in writ-
16 ing, that—

17 (A) the franchisee will obtain the right to
18 operate a business that is identified or associ-
19 ated with the franchisor’s trademark, or to
20 offer, sell, or distribute goods, services, or com-
21 modities that are identified or associated with
22 the franchisor’s trademark;

23 (B) the franchisor will exert or has author-
24 ity to exert a significant degree of control over
25 the franchisee’s method of operation, or provide

1 significant assistance in the franchisee’s method
2 of operation; and

3 (C) as a condition of obtaining or com-
4 mencing operation of the franchise business en-
5 terprise, the franchisee makes a required pay-
6 ment or commits to make a required payment
7 to the franchisor or its affiliate.

8 (7) The term “franchisee” means any person
9 who is granted a franchise business enterprise.

10 (8) The term “franchisor” means any person
11 who grants a franchise business enterprise and par-
12 ticipates in the franchise relationship. Unless other-
13 wise stated, such term includes subfranchisors.

14 (9) The term “subfranchisor” means a person
15 who functions as a franchisor by engaging in both
16 pre-sale activities and post-sale performance.

17 **SEC. 7. EFFECTIVE DATE.**

18 This Act shall take effect on the date that is one year
19 after the date of the enactment of this Act.

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