

Union Calendar No. 203

104TH CONGRESS
1ST Session

H. R. 2289

[Report No. 104-397]

A BILL

To amend title 38, United States Code, to extend permanently certain housing programs, to improve the veterans employment and training system, and to make clarifying and technical amendments to further clarify the employment and re-employment rights and responsibilities of members of the uniformed services, as well as those of the employer community, and for other purposes.

DECEMBER 11, 1995

Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 1995

Mr. BUYER (for himself, Ms. WATERS, Mr. STUMP, Mr. MONTGOMERY, Mr. BARR, Mr. COOLEY, Mr. HUTCHINSON, Mr. SCHAEFER, Mr. CLYBURN, Mr. MASCARA, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

DECEMBER 11, 1995

Additional sponsors: Mr. FLANAGAN, Mr. BISHOP, Mr. SMITH of New Jersey, Mr. BILIRAKIS, Ms. BROWN of Florida, Mr. WELLER, and Mr. CLEMENT

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ment and reemployment rights and responsibilities of members of the uniformed services, as well as those of the employer community, 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 Housing,
5 Employment Programs, and Employment Rights Benefits
6 Act of 1995”.

7 **SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

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

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

15 **SEC. 101. EXTENSIONS OF CERTAIN VETERANS’ HOUSING**
16 **PROGRAMS.**

17 (a) **NEGOTIATED INTEREST RATES.**—Paragraph (4)
18 of section 3703(e) is amended by striking out subpara-
19 graph (D).

20 (b) **ADJUSTABLE RATE MORTGAGES.**—Section
21 3707(a) is amended by striking out “demonstration
22 project under this section during fiscal years 1993, 1994,

1 and 1995” and inserting in lieu thereof “program under
2 this section”.

3 (c) ENERGY EFFICIENT MORTGAGES.—Section
4 3710(d) is amended—

5 (1) in paragraph (1), by striking out “to dem-
6 onstrate the feasibility of guaranteeing” and insert-
7 ing in lieu thereof “to guarantee”; and

8 (2) by striking out paragraph (7).

9 (d) ENHANCED LOAN ASSET SALE AUTHORITY.—
10 Section 3720(h)(2) is amended by striking out “1995”
11 and inserting in lieu thereof “2000”.

12 (e) AUTHORITY OF LENDERS OF AUTOMATICALLY
13 GUARANTEED LOANS TO REVIEW APPRAISALS.—Section
14 3731(f) is amended by striking out paragraphs (3), (4),
15 and (5).

16 (f) HOUSING ASSISTANCE FOR HOMELESS VETER-
17 ANS.—Section 3735 is amended by striking out subsection
18 (c).

19 **SEC. 102. CODIFICATION OF REPORTING REQUIREMENTS**
20 **AND CHANGES IN THEIR FREQUENCY.**

21 (a) CODIFICATION OF HOUSING RELATED REPORT-
22 ING REQUIREMENTS.—(1) Chapter 37 is amended by add-
23 ing after section 3735 the following new section:

1 **“§ 3736. Reporting requirements**

2 “(a) The annual report required by section 529 of
3 this title shall include a discussion of the activities under
4 this chapter. Beginning with the report submitted at the
5 close of fiscal year 1996, and every second year thereafter,
6 this discussion shall include information regarding the fol-
7 lowing:

8 “(1) Loans made to veterans whose only quali-
9 fying service was in the Selected Reserve.

10 “(2) Interest rates and discount points which
11 were negotiated between the lender and the veteran
12 pursuant to section 3703(c)(4)(A)(i) of this title.

13 “(3) Loans made with adjustable rates guaran-
14 teed pursuant to section 3707 of this title.

15 “(4) The determination of reasonable value by
16 lenders pursuant to section 3731(f) of this title.

17 “(5) Loans that include funds for energy effi-
18 ciency improvements pursuant to section
19 3710(a)(10) of this title.

20 “(6) Direct loans to Native American veterans
21 made pursuant to subchapter V of this chapter.”.

22 (2) The table of sections at the beginning of chapter
23 37 is amended by inserting after the item relating to sec-
24 tion 3735 the following new item:

“3736. Reporting requirements.”.

1 (b) REPEAL OF SUPERSEDED REPORTING REQUIRE-
2 MENTS.—The Veterans Home Loan Program Amend-
3 ments of 1992 (Public Law 102–547; 106 Stat. 3633) is
4 amended by striking out sections 2(c), 3(b), 8(d), 9(c),
5 and 10(b).

6 **SEC. 103. JOB PLACEMENT FOR HOMELESS VETERANS.**

7 (a) HOMELESS VETERANS EMPLOYMENT PRO-
8 GRAM.—Section 738(e)(1) of the Stewart B. McKinney
9 Homeless Assistance Act (42 U.S.C. 11448(e)(1)) is
10 amended—

11 (1) in subparagraph (A), by striking out
12 “1993” and inserting in lieu thereof “1996”;

13 (2) in subparagraph (B)—

14 (A) by striking out “\$12,000,000” and in-
15 serting in lieu thereof “\$10,000,000”, and

16 (B) by striking out “1994” and inserting
17 in lieu thereof “1997”; and

18 (3) in subparagraph (C)—

19 (A) by striking out “\$14,000,000” and in-
20 serting in lieu thereof “\$10,000,000”, and

21 (B) by striking out “1995” and inserting
22 in lieu thereof “1998”.

23 (b) GENERAL AUTHORIZATION OF APPROPRIA-
24 TIONS.—Section 739(a) of such Act (42 U.S.C. 11448(a))
25 is amended by striking out “fiscal years 1994 and 1995”

1 and inserting in lieu thereof “fiscal years 1996, 1997, and
2 1998”.

3 (c) EXTENSION OF PROGRAM.—Section 741 of such
4 Act (42 U.S.C. 11450) is amended by striking out “1995”
5 and inserting in lieu thereof “1998”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on October 1, 1995.

8 **TITLE II—VETERANS’**
9 **EMPLOYMENT AND TRAINING**

10 **SEC. 201. REGIONAL OFFICES FOR VETERANS’ EMPLOY-**
11 **MENT AND TRAINING.**

12 Paragraph (1) of section 4102A(e) is amended to
13 read as follows:

14 “(1) The Secretary of Labor shall assign regional ad-
15 ministrators for Veterans’ Employment and Training in
16 such regions, which may not be less than five in number,
17 as the Secretary may determine are necessary for the ef-
18 fective administration of the Veterans’ Employment and
19 Training Service. Each regional administrator appointed
20 after the date of the enactment of the Veterans Housing
21 and Employment Rights Benefits Act of 1994 shall be a
22 veteran.”.

23 **SEC. 202. SUPPORT PERSONNEL FOR DIRECTORS OF VET-**
24 **ERANS’ EMPLOYMENT AND TRAINING.**

25 Subsection (a) of section 4103 is amended—

1 (1) in the first sentence, by striking out “full-
2 time Federal clerical support” and inserting in lieu
3 thereof “full-time Federal clerical or other support
4 personnel”; and

5 (2) in the third sentence, by striking out “Full-
6 time Federal clerical support personnel” and insert-
7 ing in lieu thereof “Full-time Federal clerical or
8 other support personnel”.

9 **SEC. 203. DIRECTORS AND ASSISTANT DIRECTORS FOR**
10 **VETERANS’ EMPLOYMENT AND TRAINING.**

11 Subparagraph (B) of section 4103(b)(1) is amended
12 to read as follows:

13 “(B) A person who serves in the position of Director
14 for Veterans’ Employment and Training or Assistant Di-
15 rector of Veterans’ Employment Training for any State
16 for not less than two years is eligible for appointment as
17 such a Director or Assistant Director for any State, re-
18 gardless of the period of the person’s residence in that
19 State.”.

20 **SEC. 204. PILOT PROGRAM TO INTEGRATE AND STREAM-**
21 **LINE FUNCTIONS OF LOCAL VETERANS’ EM-**
22 **PLOYMENT REPRESENTATIVES.**

23 (a) **AUTHORITY TO CONDUCT PILOT PROGRAM.**—In
24 order to assess the effects on the timeliness and quality
25 of services to veterans resulting from re-focusing the staff

1 resources of local veterans' employment representatives,
2 the Secretary of Labor is authorized to conduct a pilot
3 program under which the primary responsibilities of local
4 veterans' employment representatives will be case manage-
5 ment and the provision and facilitation of direct employ-
6 ment and training services to veterans.

7 (b) AUTHORITIES UNDER CHAPTER 41.—To imple-
8 ment the pilot program, the Secretary is authorized to sus-
9 pend or limit application of those provisions of chapter 41
10 (other than sections 4104(b)(1) and (c)) of such title that
11 pertain to the Local Veterans' Employment Representa-
12 tive Program in States designated by the Secretary under
13 subsection (d), except that the Secretary may use the au-
14 thority of chapter 41, as the Secretary may determine, in
15 conjunction with the authority of this section, to carry out
16 the pilot program. The Secretary may collect such data
17 as the Secretary considers necessary for assessment of the
18 pilot program. The Secretary shall measure and evaluate
19 on a continuing basis the effectiveness of the pilot pro-
20 gram in achieving its stated goals in general, and in
21 achieving such goals in relation to their cost, their effect
22 on related programs, and their structure and mechanisms
23 for delivery of services.

24 (c) TARGETED VETERANS.—Within the pilot pro-
25 gram, eligible veterans who are among groups most in

1 need of intensive services, including disabled veterans, eco-
2 nomically disadvantaged veterans, and veterans separated
3 within the previous four years from active military, naval,
4 or air service shall be given priority for service by local
5 veterans' employment representatives. Priority for the pro-
6 vision of service shall be given first to disabled veterans
7 and then to the other categories of veterans most in need
8 of intensive services in accordance with priorities deter-
9 mined by the Secretary of Labor in consultation with ap-
10 propriate State labor authorities.

11 (d) STATES DESIGNATED.—The pilot program shall
12 be limited to not more than five States to be designated
13 by the Secretary of Labor.

14 (e) REPORTS TO CONGRESS.—(1) One year after the
15 date of the enactment of this Act, the Secretary of Labor
16 shall submit to Congress and the Committees on Veterans'
17 Affairs of the Senate and the House of Representatives,
18 an interim report describing in detail the development and
19 implementation of the pilot program on a State by State
20 basis.

21 (2) Not later than 120 days after the expiration of
22 this section under subsection (h), the Secretary of Labor
23 shall submit to Congress and the Committees on Veterans'
24 Affairs of the Senate and the House of Representatives,
25 a final report evaluating the results of the pilot program

1 and make recommendations based on the evaluation,
2 which may include legislative recommendations.

3 (f) DEFINITIONS.—For the purposes of this section—

4 (1) the term “veteran” has the meaning given
5 such term by section 101(2) of title 38, United
6 States Code;

7 (2) the term “disabled veteran” has the mean-
8 ing given such term by section 4211(3) of such title;
9 and

10 (3) the term “active military, naval, or air serv-
11 ice” has the meaning given such term by section
12 101(24) of such title.

13 (g) AUTHORIZATION.—There is authorized to be ap-
14 propriated for the pilot program, in the States designated
15 by the Secretary of Labor pursuant to subsection (d), the
16 amount allocated to such States under section
17 4102A(b)(5) of title 38, United States Code, for fiscal
18 years 1996, 1997, and 1998.

19 (h) EXPIRATION DATE.—Except as provided by sub-
20 section (e), this section shall expire on October 1, 1998.

1 **TITLE III—EMPLOYMENT AND**
2 **REEMPLOYMENT RIGHTS OF**
3 **MEMBERS OF THE UNI-**
4 **FORMED SERVICES**

5 **SEC. 301. PURPOSES.**

6 Section 4301(a)(2) is amended by striking out
7 “under honorable conditions”.

8 **SEC. 302. DEFINITIONS.**

9 Section 4303(16) is amended by inserting in lieu
10 thereof “national” before “emergency”.

11 **SEC. 303. DISCRIMINATION AGAINST PERSONS WHO SERVE**
12 **IN THE UNIFORMED SERVICES AND ACTS OF**
13 **REPRISAL PROHIBITED.**

14 Section 4311 is amended by striking out subsections
15 (b) and (c) and inserting in lieu thereof the following:

16 “(b) An employer may not discriminate in employ-
17 ment against or take any adverse employment action
18 against any person because such person (1) has taken an
19 action to enforce a protection afforded any person under
20 this chapter, (2) has testified or otherwise made a state-
21 ment in or in connection with any proceeding under this
22 chapter, (3) has assisted or otherwise participated in an
23 investigation under this chapter, or (4) has exercised a
24 right provided for in this chapter. The prohibition in this
25 subsection shall apply with respect to a person regardless

1 of whether that person has performed service in the uni-
2 formed services.

3 “(c) An employer shall be considered to have engaged
4 in actions prohibited—

5 “(1) under subsection (a), if the person’s mem-
6 bership, application for membership, service, applica-
7 tion for service, or obligation for service in the uni-
8 formed services is a motivating factor in the employ-
9 er’s action, unless the employer can prove that the
10 action would have been taken in the absence of such
11 membership, application for membership, service,
12 application for service, or obligation for service; or

13 “(2) under subsection (b), if the person’s (A)
14 action to enforce a protection afforded any person
15 under this chapter, (B) testimony or making of a
16 statement in or in connection with any proceeding
17 under this chapter, (C) assistance or other participa-
18 tion in an investigation under this chapter, or (D)
19 exercise of a right provided for in this chapter, is a
20 motivating factor in the employer’s action, unless
21 the employer can prove that the action would have
22 been taken in the absence of such person’s enforce-
23 ment action, testimony, statement, assistance, partici-
24 pation, or exercise of a right.

1 “(d) The prohibitions in subsections (a) and (b) shall
2 apply to any position of employment, including a position
3 that is described in section 4312(d)(1)(C).”.

4 **SEC. 304. REEMPLOYMENT RIGHTS OF PERSONS WHO**
5 **SERVE IN THE UNIFORMED SERVICES.**

6 (a) INCLUSION OF PREPARATION AND TRAVEL TIME
7 PRIOR TO SERVICE.—Section 4312(a) is amended by
8 striking out “who is absent from a position of employ-
9 ment” and inserting in lieu thereof “whose absence from
10 a position of employment is necessitated”.

11 (b) LIMITATION ON SERVICE EXEMPTION TO WAR OR
12 NATIONAL EMERGENCY.—Section 4312(e)(4)(B) is
13 amended to read as follows:

14 “(B) ordered to or retained on active duty
15 (other than for training) under any provision of
16 law because of a war or because of a national
17 emergency declared by the President or the
18 Congress as determined by the Secretary con-
19 cerned;”.

20 (c) BRIEF, NONRECURRENT PERIODS OF SERVICE.—
21 Section 4312(d)(2)(C) is amended by striking out “is brief
22 or for a nonrecurrent period and without a reasonable ex-
23 pectation” and inserting in lieu thereof “is for a brief,
24 nonrecurrent period and there is no reasonable expecta-
25 tion”.

1 (d) CONFORMING AMENDMENTS TO
2 REDESIGNATIONS IN TITLE 10.—Section 4312(c) is
3 amended—

4 (1) in paragraph (3), by striking out “section
5 270” and inserting in lieu thereof “section 10147”;
6 and

7 (2) in paragraph (4)—

8 (A) by striking out “section 672(a),
9 672(g), 673, 673b, 673c, or 688” in subpara-
10 graph (A) and inserting in lieu thereof “section
11 688, 12301(a), 12301(g), 12302, 12304, or
12 12305”;

13 (B) by striking out “section 673b” in sub-
14 paragraph (C) and inserting in lieu thereof
15 “section 12304”; and

16 (C) by striking out “section 3500 or 8500”
17 in subparagraph (E) and inserting in lieu there-
18 of “section 12406”.

19 **SEC. 305. REEMPLOYMENT POSITIONS.**

20 Section 4313(a)(4) is amended—

21 (1) by striking out “uniform services” in clause
22 (A)(ii) and inserting in lieu thereof “uniformed serv-
23 ices”; and

24 (2) by striking out “of lesser status and pay
25 which” and inserting in lieu thereof “which is the

1 nearest approximation to a position referred to first
2 in clause (A)(i) and then in clause (A)(ii) which”.

3 **SEC. 306. LEAVE.**

4 Section 4316(d) is amended by adding at the end the
5 following new sentence: “No employer may require any
6 such person to use vacation, annual or similar leave during
7 such period of service.”.

8 **SEC. 307. HEALTH PLANS.**

9 Section 4317(a) is amended—

10 (1) by striking out “(a)(1)(A) Subject to para-
11 graphs (2) and (3), in” and inserting in lieu thereof
12 “(a)(1) In”;

13 (2) by redesignating clauses (i) and (ii) of para-
14 graph (1) (as amended by paragraph (1) of this sec-
15 tion) as subparagraphs (A) and (B), respectively;

16 (3) by redesignating subparagraph (B) as para-
17 graph (2); and

18 (4) by redesignating subparagraph (C) as para-
19 graph (3), and in that paragraph by redesignating
20 clauses (i) and (ii) as subparagraphs (A) and (B),
21 and by redesignating subclauses (I) and (II) as
22 clauses (i) and (ii), respectively.

1 **SEC. 308. EMPLOYEE PENSION BENEFIT PLANS.**

2 The last sentence of section 4318(b)(2) is amended
3 by striking out “services,” and inserting in lieu thereof
4 “services, such payment period”.

5 **SEC. 309. ENFORCEMENT OF EMPLOYMENT OR REEMPLOY-**
6 **MENT RIGHTS.**

7 (a) TECHNICAL AMENDMENT.—The second sentence
8 of section 4322(d) is amended by inserting in lieu thereof
9 “attempt to” before “resolve”.

10 (b) NOTIFICATION.—Section 4322(e) of is amend-
11 ed—

12 (1) in the matter preceding paragraph (1), by
13 striking out “with respect to a complaint under sub-
14 section (d) are unsuccessful,” and inserting in lieu
15 thereof “with respect to any complaint filed under
16 subsection (a) do not resolve the complaint,”; and

17 (2) in paragraph (2), by inserting in lieu there-
18 of “or the Office of Personnel Management” after
19 “Federal executive agency”.

20 **SEC. 310. ENFORCEMENT OF RIGHTS WITH RESPECT TO A**
21 **STATE OR PRIVATE EMPLOYER.**

22 Section 4323(a) is amended—

23 (1) in paragraph (1), by striking out “of an un-
24 successful effort to resolve a complaint”; and

1 (2) in paragraph (2)(A), by striking out “re-
2 garding the complaint under section 4322(c)” and
3 inserting in lieu thereof “under section 4322(a)”.

4 **SEC. 311. ENFORCEMENT OF RIGHTS WITH RESPECT TO**
5 **FEDERAL EXECUTIVE AGENCIES.**

6 (a) REFERRAL.—Section 4324(a)(1) is amended by
7 striking out “of an unsuccessful effort to resolve a com-
8 plaint relating to a Federal executive agency”.

9 (b) ALTERNATIVE SUBMISSION OF COMPLAINT.—
10 Section 4324(b) is amended—

11 (1) in the matter preceding paragraph (1), by
12 inserting in lieu thereof “or the Office of Personnel
13 Management” after “Federal executive agency”; and

14 (2) in paragraph (1), by striking out “regarding
15 a complaint under section 4322(c)” and inserting in
16 lieu thereof “under section 4322(a)”.

17 (c) RELIEF.—Section 4324(c)(2) is amended—

18 (1) by inserting in lieu thereof “or the Office of
19 Personnel Management” after “Federal executive
20 agency”; and

21 (2) by striking out “employee” and inserting in
22 lieu thereof “Office”.

23 **SEC. 312. ENFORCEMENT OF RIGHTS WITH RESPECT TO**
24 **CERTAIN FEDERAL AGENCIES.**

25 Section 4325(d)(1) is amended—

1 (1) by striking out “, alternative employment in
2 the Federal Government under this chapter,”; and

3 (2) by striking out “employee” the last place it
4 appears and inserting in lieu thereof “employees”.

5 **SEC. 313. CONDUCT OF INVESTIGATION; SUBPOENAS.**

6 Section 4326(a) is amended by inserting in lieu there-
7 of “have reasonable access to and the right to interview
8 persons with information relevant to the investigation and
9 shall” after “at all reasonable times,”.

10 **SEC. 314. TRANSITION RULES AND EFFECTIVE DATES.**

11 (a) REEMPLOYMENT.—Section 8(a) of the Uniformed
12 Services Employment and Reemployment Rights Act of
13 1994 (38 U.S.C. 4301 note) is amended—

14 (1) in paragraph (3), by adding at the end
15 thereof the following: “Any service begun up to 60
16 days after the date of enactment of this Act, which
17 is served up to 60 days after the date of enactment
18 of this Act pursuant to orders issued under section
19 502(f) of chapter 5 of title 32, United States Code,
20 shall be considered under chapter 43 of title 38,
21 United States Code, as in effect on the day before
22 such date of enactment. Any service pursuant to or-
23 ders issued under section 502(f) of chapter 5 of title
24 32, United States Code, served after 60 days after
25 the date of enactment of this Act, regardless of

1 when begun, shall be considered under the amend-
2 ments made by this Act.”; and

3 (2) in paragraph (4), by striking out “such pe-
4 riod” and inserting in lieu thereof “such 60-day pe-
5 riod”.

6 (b) INSURANCE.—Section 8(c)(2) of such Act is
7 amended by striking out “person on active duty” and in-
8 serting in lieu thereof “person serving a period of service
9 in the uniformed services”.

10 **SEC. 315. EFFECTIVE DATES.**

11 (a) IN GENERAL.—Except as provided in subsection
12 (b), the amendments made by this title shall take effect
13 as of October 13, 1994.

14 (b) REORGANIZED TITLE 10 REFERENCES.—The
15 amendments made by section 304(d) shall take effect as
16 of December 1, 1994.

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