Public Law 101-366
101st Congress

An Act

Aug. 15, 1990
[H.R. 1199]

To amend title 38, United States Code, to establish a system of competitive pay for nurses employed by the Department of Veterans Affairs, to authorize the Secretary of Veterans Affairs to make such system applicable to certain other health-care personnel, to make certain improvements in veterans' health and education programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Veterans Affairs Nurse Pay Act of 1990.
Government organization and employees.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Nurse Pay Act of 1990".

TITLE I—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

SEC. 101. RESTRUCTURING OF NURSE GRADE LEVELS AND PAY.

38 USC 4107 note.

(a) NEW GRADES ESTABLISHED.—The Secretary of Veterans Affairs shall provide four grade levels for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code, with relation to current nurse grades, as follows:

New grades	Current nurse grades
1. Entry grade	Junior and associate grades
2. Intermediate grade	Full and intermediate grades
3. Senior grade	Senior and chief grades
4. Director grade	Assistant director and director grades

38 USC 4107 note.

(b) CURRENT NURSE GRADES DEFINED.—For purposes of subsection (a), the term "current nurse grades" means the grades in effect on the day before the effective date of this Act for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code.

(c) CONFORMING AMENDMENT.—Section 4107(b) of title 38, United States Code, is amended by striking out the items under the heading "NURSE SCHEDULE" and inserting in lieu thereof the following:

"Entry grade.
"Intermediate grade.
"Senior grade.
"Director grade.".

SEC. 102. RATES OF PAY AND ADMINISTRATION OF PAY FOR NEW NURSE GRADES AND CERTAIN OTHER HEALTH-CARE PERSONNEL.

(a) CLARIFICATION.—Section 4104(1) of title 38, United States Code, is amended by inserting "registered" before "nurses".

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(b) PAY ADMINISTRATION.—Chapter 73 of such title is amended by inserting after subchapter III the following new subchapter:

"SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

"§ 4141. Nurses and other health-care personnel: competitive pay

"(a)(1) It is the purpose of this section to ensure, by a means providing increased responsibility and authority to directors of Department health-care facilities, that the rates of basic pay for health-care personnel positions described in paragraph (2) in each Department health-care facility (including the rates of basic pay of personnel employed in such positions on a part-time basis) are sufficient for that facility to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the same labor-market area in the recruitment and retention of qualified personnel for those positions.

"(2) The health-care personnel positions referred to in paragraph (1) (hereinafter in this section referred to as 'covered positions') are the following:

"(A) Registered nurse.

"(B) Such positions referred to in clauses (1) and (3) of section 4104 of this title (other than the positions of physician, dentist, and registered nurse) as the Secretary may determine upon the recommendation of the Chief Medical Director.

"(3) The rates of basic pay for covered positions in the Department shall be established and adjusted in accordance with this section instead of subsection (b)(1) of section 4107 of this title.

"(4) The Secretary, after receiving the recommendation of the Chief Medical Director, shall prescribe regulations setting forth criteria and procedures to carry out this section and section 4142 of this title. Requirements in such regulations for directors to provide and maintain documentation of actions taken under this section shall require no more documentation than the minimum essential for responsible administration. Regulations.

"(b) The Secretary shall maintain the four grade levels for nurses employed by the Department under section 4104(1) of this title as specified in the Nurse Schedule in section 4107(b) of this title. The Secretary shall, pursuant to regulations prescribed to carry out this subchapter, establish grades for other covered positions as the Secretary considers appropriate.

"(c)(1) For each grade in a covered position, there shall be a range of basic pay. The maximum rate of basic pay for a grade shall be 133 percent of the minimum rate of basic pay for the grade, except that, if the Secretary determines that a higher maximum rate is necessary with respect to any such grade in order to recruit and retain a sufficient number of high-quality health-care personnel, the Secretary may raise the maximum rate of basic pay for that grade to a rate not in excess of 175 percent of the minimum rate of basic pay for the grade. Whenever the Secretary exercises the authority under the preceding sentence to establish the maximum rate of basic pay at a rate in excess of 133 percent of the minimum rate for that grade, the Secretary shall, in the next annual report required by subsection (g), provide justification for doing so to the Committees on Veterans' Affairs of the Senate and House of Representatives.

"(2) The maximum rate of basic pay for any grade for a covered position may not exceed the maximum rate of basic pay established for positions in level V of the Executive Schedule under section 5316 of title 5.

"(3) The range of basic pay for each such grade shall be divided into equal increments, known as 'steps'. The Secretary shall prescribe the number of steps. Each grade in a covered position shall have the same number of steps. Rates of pay within a grade may not be established at rates other than whole steps. Any increase (other than an adjustment under subsection (d)) within a grade in the rate of basic pay payable to an employee in a covered position shall be by one or more of such step increments.

"(d)(1) The rates of basic pay for each grade in a covered position shall be adjusted periodically in accordance with this subsection in order to achieve the purposes of this section. Such adjustments shall be made—

"(A) whenever there is an adjustment under section 5305 of title 5 in the rates of pay under the General Schedule, with the adjustment under this subsection to have the same effective date as the adjustment in the rates of basic pay under the General Schedule; and

"(B) at such additional times as the director of a Department health-care facility, with respect to employees in that grade at that facility, determines.

"(2) An adjustment in rates of basic pay under this subsection for a grade shall be carried out by adjusting the amount of the minimum rate of basic pay for that grade in accordance with paragraph (3) and then adjusting the other rates for that grade to conform to the requirements of subsection (c). Such an adjustment in the minimum rate of basic pay for a grade shall be made by the director of a Department health-care facility so as to achieve consistency with the beginning rate of compensation for corresponding health-care professionals in the Bureau of Labor Statistics (BLS) labor-market area of that facility.

"(3)(A) In the case of a Department health-care facility located in an area for which there is current information, based upon an industry-wage survey by the Bureau of Labor Statistics for that labor market, on beginning rates of compensation for corresponding health-care professionals for the BLS labor-market area of that facility, the director of the facility concerned shall use that information as the basis for making adjustments in rates of pay under this subsection. Whenever the Bureau of Labor Statistics releases the results of a new industry-wage survey for that labor market that includes information on beginning rates of compensation for corresponding health-care professionals, the director of that facility shall determine, not later than 30 days after the results of the survey are released, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination.

"(B) In the case of a Department health-care facility located in an area for which the Bureau of Labor Statistics does not have current information on beginning rates of compensation for corresponding health-care professionals for the labor-market area of that facility for any covered position, the director of that facility shall conduct a

survey in accordance with this subparagraph and shall adjust the amount of the minimum rate of basic pay for grades in that covered position at that facility based upon that survey. Any such survey shall be conducted in accordance with regulations prescribed by the Secretary. Those regulations shall be developed in consultation with the Secretary of Labor in order to ensure that the director of a facility collects information that is valid and reliable and is consistent with standards of the Bureau. The survey should be conducted using methodology comparable to that used by the Bureau in making industry-wage surveys except to the extent determined infeasible by the Secretary. Upon conducting a survey under this subparagraph, the director concerned shall determine, not later than 30 days after the date on which the collection of information through the survey is completed, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination.

Regulations.

"(C) The director of a facility may not adjust rates of basic pay under this subsection for any pay grade so that the minimum rate of basic pay for that grade is greater than the beginning rates of compensation for corresponding positions at non-Department health-care facilities.

"(4) If the director of a Department health-care facility determines, after any survey under paragraph (3)(B) or at any other time that an adjustment in rates of pay is scheduled to take place under this subsection, that it is not necessary to adjust the rates of basic pay for employees in a grade of a covered position at that facility in order to carry out the purpose of this section, such an adjustment for employees at that facility in that grade shall not be made. Whenever a director makes such a determination, the director shall within 10 days notify the Chief Medical Director of the decision and the reasons for the decision.

"(5) Information collected by the Department in surveys conducted under this subsection is not subject to disclosure under section 552 of title 5.

"(6) In this subsection—

"(A) The term 'beginning rate of compensation', with respect to health-care personnel positions in non-Department health-care facilities corresponding to a grade of a covered position, means the sum of—

"(i) the minimum rate of pay established for personnel in such positions who have education, training, and experience equivalent or similar to the education, training, and experience required for health-care personnel employed in the same category of Department covered positions; and

"(ii) other employee benefits for those positions to the extent that those benefits are reasonably quantifiable.

"(B) The term 'corresponding', with respect to health-care personnel positions in non-Department health-care facilities, means those positions for which the education, training, and experience requirements are equivalent or similar to the education, training, and experience requirements for health-care personnel positions in Department health-care facilities.

"(e) Adjustments in rates of basic pay under subsection (d) may increase or reduce the rates of basic pay applicable to any grade of a covered position. In the case of such an adjustment that reduces the rates of pay for a grade, an employee serving at a Department health-care facility on the day before the effective date of that adjustment in a position affected by the adjustment may not (by reason of that adjustment) incur a reduction in the rate of basic pay applicable to that employee so long as the employee continues to serve in that covered position at that facility. If such an employee is subsequently promoted to a higher grade, or advanced to a higher step within the employee's grade, for which the rate of pay as so adjusted is lower than the employee's rate of basic pay on the day before the effective date of the promotion, the employee shall continue to be paid at a rate of basic pay not less than the rate of basic pay applicable to the employee before the promotion so long as the employee continues to serve in that covered position at that facility.

Reports.

"(f) Not later than February 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding any pay adjustments under the authority of subsection (d)(1)(A) effective during the 12 months preceding the submission of the report. Each such report shall set forth, by health-care facility, the percentage of such increases and, in any case in which no increase was made, the basis for not providing an increase.

Reports.

"(g) Not later than December 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the exercise of the authorities provided in this section for the preceding fiscal year. Each such report shall include the following:

"(1) A review of the use of the authorities provided in this section (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) during the preceding fiscal year, including an assessment of the effects of the exercise of such authorities on the ability of the Department to recruit and retain qualified health-care professionals for covered positions.

"(2) The plans for the use of the authorities provided in this subchapter for the next fiscal year.

"(3) A description of the rates of basic pay in effect during the preceding fiscal year, with a comparison to the rates in effect during the previous fiscal year, shown by facility and by covered position.

"(4) The numbers of employees in covered positions (shown separately for registered nurses and for each other covered position) who during the preceding fiscal year (A) left employment with the Department, (B) left employment at one Department medical facility for employment at another Department medical facility, or (C) changed from full-time status to part-time status (and from part-time status to full-time status), and a summary of the reasons therefor.

"(5) The number of vacancies in covered positions in the Administration and a summary of the reasons that those positions are vacant.

"(6) The number of employees who during the preceding fiscal year left employment at a health-care facility in one Bureau of Labor Statistics labor-market area for employment at a health-

care facility in another such labor-market area, without changing residence.

"(7) Justification for setting the maximum rate of basic pay for any grade at a rate in excess of 133 percent of the minimum rate of basic pay for that grade.

"(8) The discussion required by section 4142(b)(2) of this title.

"(h) For the purposes of this section, the term 'health-care facility' means a medical center, an independent outpatient clinic, or an independent domiciliary facility.

"§ 4142. Nurses and other health-care personnel: administration of pay

"(a)(1) Regulations prescribed under section 4141(a) of this title shall provide that whenever an employee in a covered position is given a new duty assignment which is a promotion, the rate of basic pay of that employee shall be increased at least one step increment in that employee's grade.

"(2) A nurse serving in a head nurse position shall while so serving receive basic pay at a rate two step increments above the rate that would otherwise be applicable to the nurse. If such a nurse is in the highest or next-to-highest step for that nurse's grade, the preceding sentence shall be applied by extrapolation to create additional steps only for the purposes of this paragraph. The limitation in section 4141(c)(1) of this title shall not apply with respect to increased basic pay under this paragraph.

"(3) An employee in a covered position who is promoted to the next higher grade shall be appointed in that grade at a step having a rate of basic pay that is greater than the rate of basic pay applicable to the employee in a covered position on the day before the effective date of the promotion.

"(b)(1) Under regulations which the Secretary prescribes for the administration of this section, the director of a Department health-care facility (A) shall pay a cash bonus (in an amount to be determined by the director not to exceed $2,000) to an employee in a covered position at that facility who becomes certified in a specialty recognized by the Department, and (B) may provide such a bonus to an employee in such a position who has demonstrated both exemplary job performance and exemplary job achievement. The authority of the Secretary under this subsection is in addition to any other authority of the Secretary to provide job performance incentives.

"(2) The Secretary shall include in the annual report under section 4141(g) of this title a discussion of the use during the period covered by the report of the payment of bonuses under this subsection and other job performance incentives available to the Secretary.

"(c)(1) The Secretary shall provide (in regulations prescribed for the administration of this section) that the director of a Department health-care facility, in making a new appointment of a person under section 4104(1) of this title as an employee in a covered position for employment at that facility, may make that appointment at a rate of pay described in paragraph (3) without being subject to a requirement for prior approval at any higher level of authority within the Department in any case in which the director determines that it is necessary to do so in order to obtain the services of employees in covered positions in cases in which vacancies exist at that health-care facility.

"(2) Such a determination may be made by the director of a health-care facility only in order to recruit employees in covered positions with specialized skills, especially employees with skills which are especially difficult or demanding.

"(3) A rate of pay referred to in paragraph (1) is a rate of basic pay in excess of the minimum rate of basic pay applicable to the grade in which the appointment is made (but not in excess of the maximum rate of basic pay for that grade).

"(4) Whenever the director of a health-care facility makes an appointment described in paragraph (1) without prior approval at a higher level of authority within the Department, the director shall—

"(A) state in a document the reasons for employing the employee in a covered position at a rate of pay in excess of the minimum rate of basic pay applicable to the grade in which the employee is appointed (and retain that document on file); and

"(B) in the first budget documents submitted to the Secretary by the director after the employee is employed, include documentation for the need for such increased rates of basic pay described in clause (A).

"(5) Whenever the director of a health-care facility makes an appointment described in paragraph (1) on the basis of a determination described in paragraph (2), the covered employee appointed may continue to receive pay at a rate higher than that which would otherwise be applicable to that employee only so long as the employee continues to serve in a position requiring the specialized skills with respect to which the determination was made.

"(d) Whenever the director of a health-care facility makes an appointment described in subsection (c)(1), the director may (without a regard to any requirement for prior approval at any higher level of authority within the Department) increase the rate of pay of other employees in the same covered position at that facility who are in the grade in which the appointment is made and are serving in a position requiring the specialized skills with respect to which the determination under subsection (c)(2) concerning the appointment was made. Any such increase shall continue in effect with respect to any employee only so long as the employee continues to serve in such a position.

"(e) An employee in a covered position employed under section 4104(1) of this title who (without a break in employment) transfers from one Department health-care facility to another may not be reduced in grade or step within grade (except pursuant to a disciplinary action otherwise authorized by law) if the duties of the position to which the employee transfers are similar to the duties of the position from which the employee transferred. The rate of basic pay of such employee shall be established at the new health-care facility in a manner consistent with the practices at that facility for an employee of that grade and step.

"(f) In this section, the term 'covered position' has the meaning given that term in section 4141 of this title.".

(c) CONFORMING AMENDMENTS.—Section 4107(e)(1) of such title is amended by striking out "in subsection (b)(1) of this section".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of such title is amended by inserting after the item relating to section 4134 the following:

"SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

"4141. Nurses and other health-care personnel: competitive pay.
"4142. Nurses and other health-care personnel: administration of pay.".

SEC. 103. REPEAL OF LIMITATION ON HOURLY RATE OF OVERTIME PAY.

Section 4107(e)(5) of title 38, United States Code, is amended by striking out ", not to exceed" in the first sentence and all that follows through "Nurse Schedule".

SEC. 104. EFFECTIVE DATE.

38 USC 4141 note.

(a) IN GENERAL.—(1) Except as provided in subsection (b), section 101 and the amendments made by section 102 shall take effect on the date of enactment.

(2) The amendment made by section 103 shall take effect on April 1, 1991.

(b) NEW PAY RATES.—The rates of basic pay established pursuant to section 4141 of title 38, United States Code, as added by section 102, shall take effect for covered positions (as defined in that section) with respect to the first pay period beginning on or after April 1, 1991.

TITLE II—MISCELLANEOUS

SEC. 201. PILOT PROGRAM ON PROVISION OF NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) AUTHORITY TO PROVIDE FOR NONINSTITUTIONAL CARE.—(1) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 620C. Noninstitutional alternatives to nursing home care: pilot program

"(a) During the four-year period beginning on October 1, 1990, the Secretary may conduct a pilot program for the furnishing of medical, rehabilitative, and health-related services in noninstitutional settings for veterans who are eligible under this chapter for, and are in need of, nursing home care and who—

"(1) are in receipt of, or are in need of, nursing home care primarily for the treatment of a service-connected disability; or

"(2) have a service-connected disability rated at 50 percent or more.

"(b)(1) Under the pilot program conducted pursuant to subsection (a), the Secretary shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) designate Department health-care employees to furnish case management services to veteran furnished services under the program.

"(2) For the purposes of paragraph (1), the term 'case management services' includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

"(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a facility furnishing services to veterans under subsection (b)(1)(A). Any such in-kind assistance shall be provided under a contract between the Department and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Department receives reimbursement for the full cost of such assistance (including the cost of services and supplies and normal depreciation and amortization of equipment). Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The total cost of providing services or in-kind assistance in the case of any veteran for any fiscal year under the pilot program may not exceed 65 percent of the cost that would have been incurred by the Department during that fiscal year if the veteran had been furnished, instead, nursing home care under section 610 of this title during that fiscal year.

"(e) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to the extent that appropriations are available.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 620B the following new item:

"620C. Noninstitutional alternatives to nursing home care: pilot program.".

38 USC 620C note.

(b) REPORT.—Not later than February 1, 1994, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's evaluation, findings, and conclusions regarding the conduct, through September 30, 1993, of the pilot program required by section 620C of title 38, United States Code (as added by subsection (a)), and the results of the furnishing of care under such pilot program for the participating veterans. The report shall include a description of the conduct of the pilot program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate to include in the report.

SEC. 202. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) EXPANSION OF PURPOSE.—Section 5051 of title 38, United States Code, is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "health-care facilities".

(b) EXPANSION OF AUTHORITY.—Section 5053 of such title is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) in the first sentence, by striking out "a charge" and all that follows and inserting in lieu thereof "a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved."; and

(B) in the second sentence, by inserting before the period "and to funds that have been allotted to the facility that furnished the resource involved".

SEC. 203. TEMPORARY APPOINTMENTS OF HEALTH-CARE PERSONNEL.

Section 4114(a)(3) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out the penultimate sentence and inserting in lieu thereof the following: "Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing approved by the Secretary, or who have successfully completed a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years."; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) A student who has a temporary appointment under this paragraph and who is pursuing a full course of nursing in a recognized school of nursing approved by the Secretary, or who is pursuing a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, may be reappointed for a period not to exceed the duration of the student's academic program.".

SEC. 204. REPORT ON POST-TRAUMATIC STRESS DISORDER.

Section 201(e)(1) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237; 103 Stat. 2066) is amended by inserting "and not later than February 1, 1991," after "Not later than February 1, 1990,". 38 USC 612A note.

SEC. 205. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAMS.

(a) COORDINATION WITH DEPARTMENT OF DEFENSE PROGRAMS.—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"§ 4351. Authority for program

"(a) As part of the Educational Assistance Program, the Secretary of Veterans Affairs may select qualified individuals to receive assistance under this subchapter.

"(b) To be eligible to receive assistance under this subchapter, an individual must be accepted for enrollment or be enrolled as a full-time student at a qualifying educational institution in a course of

education or training that is approved by the Secretary and that leads toward completion of a degree in a health profession involving direct patient care or care incident to direct patient care.

"§ 4352. Eligibility: individuals entitled to benefits under the GI Bill program for members of the Selected Reserve

"The Secretary of Veterans Affairs may not approve an application under section 4303 of this title of an individual applying to receive assistance under this subchapter unless—

"(1) the individual is entitled to benefits under chapter 106 of title 10; and

"(2) the score of the individual on the Armed Forces Qualification Test was above the 50th percentile.

"§ 4353. Amount of assistance

"The Secretary may pay to a person selected to receive assistance under this subchapter the amount of $400 (adjusted in accordance with section 4331 of this title) for each month of the person's enrollment in a program of education or training covered by the agreement of the person entered into under section 4303 of this title. Payment of such benefits for any period shall be coordinated with any payment of benefits for the same period under chapter 106 of title 10.

"§ 4354. Obligated service

"A person receiving assistance under this subchapter shall provide service in the full-time clinical practice of the person's profession as a full-time employee of the Department for the period of obligated service provided in the agreement of such person entered into under section 4303 of this title.

"§ 4355. Breach of agreement; liability

"(a)(1) Subject to paragraph (2), an individual who is receiving or has received a reserve member stipend under this subchapter and who fails to perform the service for which the individual is obligated under section 4354 of this title shall be liable to the United States in an amount determined in accordance with section 4317(c)(1) of this title.

"(2) An individual who, as a result of performing active duty (including active duty for training), is unable to perform the service for which the individual is obligated under section 4354 of this title shall be permitted to perform that service upon completion of the active duty service (or active duty for training). The Secretary may, by regulation, waive the requirement for the performance of the service for which the individual is obligated under section 4354 of this title in any case in which the Secretary determines that the individual is unable to perform the service for reasons beyond the control of the individual or in any case in which the waiver would be in the best interest of the individual and the United States.

"(b) Any amount owed the United States under subsection (a) of this section shall be paid to the United States during the one-year period beginning on the date of the breach of the agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"4351. Authority for program.

"4352. Eligibility: individuals entitled to benefits under the GI Bill program for members of the Selected Reserve.
"4353. Amount of assistance.
"4354. Obligated service.
"4355. Breach of agreement; liability.".

(b) PERIODIC ADJUSTMENTS IN AMOUNT OF ASSISTANCE.—Section 4331 of such title is amended—

(1) in the first sentence of subsection (a)(1)—

(A) by striking out "amount and" and inserting in lieu thereof "amount,"; and

(B) by striking out "amount." and inserting in lieu thereof "amount, and the maximum Selected Reserve member stipend amount.";

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'maximum Selected Reserve member stipend amount' means the maximum amount of assistance provided to a person receiving assistance under subchapter V of this chapter, as specified in section 4353 of this title and as previously adjusted (if at all) in accordance with this subsection.".

(c) CONFORMING AMENDMENTS.—(1) Section 4301(a) of such title is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(3) the Selected Reserve member stipend program provided for under subchapter V of this chapter.".

(2) Section 4302 of such title is amended by inserting "under subchapter I or II of this chapter" in subsections (a) and (b) after "Educational Assistance Program".

(3) Section 4304 of such title is amended by striking out "subchapter II or III" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapters II, III, or V".

SEC. 206. ADMINISTRATION.

(a) IN GENERAL.—Chapter 36 of title 38, United States Code, is amended by inserting after section 1784 the following new section:

"§ 1784A. Procedures relating to computer matching program

"(a)(1) Notwithstanding section 552a(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any individual, or take other adverse action against such individual, based on information produced by a matching program with the Department of Defense.

"(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—

"(A) the individual concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days after the date of the notice; and

"(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

"(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

"(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

"(c) For purposes of this section, the term 'matching program' has the same meaning provided in section 552a(a)(8) of title 5.".

38 USC 1434 note.

(b) RATIFICATION.—Any use by the Department of Veterans Affairs, during the period beginning on July 2, 1990, and ending on the date of the enactment of this Act, of any category of information provided by the Department of Defense or the Department of Transportation for making determinations described in section 413(b) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) is hereby ratified.

38 USC 1434 note.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1784 the following new item:

"1784A. Procedures relating to computer matching programs.".

5 USC 552a note.

(d) EFFECTIVE DATE DELAYED FOR CERTAIN EDUCATION BENEFITS COMPUTER MATCHING PROGRAMS.—(1) In the case of computer matching programs between the Department of Veterans Affairs and the Department of Defense in the administration of education benefits programs under chapters 30 and 32 of title 38 and chapter 106 of title 10, United States Code, the amendments made to section 552a of title 5, United States Code, by the Computer Matching and Privacy Protection Act of 1988 (other than the amendments made by section 10(b) of that Act) shall take effect on October 1, 1990.

(2) For purposes of this subsection, the term "matching program" has the same meaning provided in section 552a(a)(8) of title 5, United States Code.

38 USC 1622 note.

SEC. 207. REFUNDS FOR CERTAIN SERVICE ACADEMY GRADUATES.

(a) IN GENERAL.—Upon receipt before January 1, 1992, of an application from an individual described in subsection (b)(3), the Secretary of Veterans Affairs shall—

(1) not later than 60 days after receiving such application, refund to the individual concerned the amount, if any, of the individual's unused contributions to the VEAP Account;

(2)(A) if the individual has received educational assistance under chapter 32 of title 38, United States Code, for the pursuit of a program of education, pay to the individual (out of funds appropriated to the readjustment benefits account) a sum equal to the amount by which the amount of the educational assistance that the individual would have received under chapter 34 of such title for the pursuit of such program exceeds the amount of the educational assistance that the individual did receive under such chapter 32 for the pursuit of such program; or

(B) if the individual has not received educational assistance under such chapter 32, pay to the individual (out of funds appropriated to the Department of Veterans Affairs Readjustment Benefits account) a sum equal to the amount of educational assistance that the individual would have received under chapter 34 of such title for the pursuit of a program of

education if the individual had been entitled to assistance under such program during the period ending on December 31, 1989; and

(3) refund to the Secretary of Defense the unused contributions by such Secretary to the VEAP Account on behalf of such individual.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "VEAP Account" means the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of title 38, United States Code;

(2) the term "active duty" has the same meaning given such term by section 101(21) of such title 38;

(3) the term "individual described in subsection (b)(3)" means an individual who—

(A) before January 1, 1977, commenced the third academic year as a cadet or midshipman at one of the service academies or the third academic year as a member of the Senior Reserve Officers' Training Corps in a program of educational assistance under section 2104 or 2107 of title 10, United States Code;

(B) served on active duty for a period of more than 180 days pursuant to an appointment as a commissioned officer received upon graduation from one of the service academies or upon satisfactory completion of advanced training (as defined in section 2101 of such title 10) as a member of the Senior Reserve Officers' Training Corps;

(C) after such period of active duty, was discharged or released therefrom under conditions other than dishonorable or continued to serve on active duty without a break in service; and

(D) if enrolled under the program of educational assistance provided under chapter 32 of title 38, United States Code, submits to the Secretary of Veterans Affairs, as part of the application made by the individual under subsection (a) in such form and manner as such Secretary shall prescribe by January 1, 1991, an irrevocable election to be disenrolled from such program at that time; and

(4) the term "service academies" means the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

SEC. 208. LIMITATIONS ON CHANGES OF PROGRAMS OF EDUCATION.

(a) IN GENERAL.—Section 1791(b) of title 38, United States Code, is amended by striking out "The" through "additional change" and inserting in lieu thereof "The Secretary, in accordance with procedures that the Secretary may establish, may approve a change other than a change under subsection (a) of this section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on June 1, 1991.

38 USC 1791 note.

SEC. 209. NAMING OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN SAGINAW, MICHIGAN.

Public buildings and grounds.

The Department of Veterans Affairs medical center in Saginaw, Michigan, shall after the date of the enactment of this Act be known and designated as the "Aleda E. Lutz Department of Veterans Affairs Medical Center". Any reference to such medical center in

any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Aleda E. Lutz Department of Veterans Affairs Medical Center.

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.R. 1199:

HOUSE REPORTS: No. 101-106 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): June 27, considered and passed House.
Vol. 136 (1990): Aug. 2, considered and passed Senate, amended.
Aug. 3, House concurred in Senate amendments.