

No. 22-888

IN THE
Supreme Court of the United States

JAMES R. RUDISILL,

Petitioner,

v.

DENIS R. MCDONOUGH, SECRETARY OF
VETERANS AFFAIRS,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FEDERAL CIRCUIT

JOINT APPENDIX

ELIZABETH B. PRELOGAR

Counsel of Record

for Respondent

SOLICITOR GENERAL

UNITED STATES DEPARTMENT

OF JUSTICE

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(202) 514-2217

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(608) 999-1240

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Counsel for Petitioner

(For Continuation of Appearances See Inside Cover)

PETITION FOR CERTIORARI FILED MARCH 13, 2023

CERTIORARI GRANTED JUNE 26, 2023

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**APPENDIX A — APPLICATION FOR
VA EDUCATION BENEFITS,
SUBMITTED MARCH 19, 2015**

VA Form 22-1990
DEC 2008

APPLICATION FOR VA EDUCATION BENEFITS

EDUCATION BENEFIT BEING APPLIED FOR:
Chapter 33 in Lieu of Chapter 30 - Effective: 3/18/2015

By electing Chapter 33, I acknowledge that I understand the following:

- I may not receive more than a total of 48 months of benefits under two or more programs.
- If electing chapter 33 in lieu of chapter 30, my months of entitlement under chapter 33 will be limited to the number of months of entitlement remaining under chapter 30 on the effective date of my election. However, if I completely exhaust my entitlement under chapter 30 before the effective date of my chapter 33 election, I may receive up to 12 additional months of benefits under chapter 33.
- My election is irrevocable and may not be changed.

APPLICANT INFORMATION

SSN: [REDACTED] Sex: Male Date of Birth: [REDACTED]

Name: James R Rudisill

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Appendix A

Address:

[REDACTED]

Telephone Numbers: Primary: [REDACTED] [REDACTED]
Secondary: [REDACTED] [REDACTED]

Email Address: [REDACTED]

Direct Deposit: Type of Account: Checking
Name of Financial Inst.: [REDACTED]
Routing/Transit #: [REDACTED] Account #: [REDACTED]

Name, Address, & Telephone Number of Contact:
[REDACTED] [REDACTED]

Address and phone same as claimant

Have you previously applied for VA benefits? YES
Chapter 30

Previously Applied for VA Benefits Using Someone Else's
Service? NO

INFORMATION ON VA EDUCATION BENEFITS

Received an information pamphlet: NO

**TYPE AND PROGRAM OF EDUCATION OR
TRAINING**

Type of Education or Training: College or Other School
(including online courses)

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Appendix A

Name and Address of School or Training Establishment:
YALE DIVINITY SCHOOL
409 PROSPECT STREET
NEW HAVEN , CT 06511

Education or Career Goal: Priest

Course of Study: Master in Divinity

ACTIVE DUTY SERVICE INFORMATION

Are You Now On Active Duty? NO

Are you Now On Terminal Leave Just Before Discharge?

Attaching Copy of DD 214 to Application? NO

Date Entered	Date Separated	Service Component
Active Duty	From Active Duty	
06/17/2004	08/01/2011	Army
Service Status:	ACTIVE DUTY	
Involuntary Call:	N/A	

**EDUCATION AND EMPLOYMENT
INFORMATION**

Date Received High School Diploma or Equivalency
Certificate: 05/30/1998

FAA Flight Certificates: N/A

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Appendix A

Education After High School

Name and Location of College or Training Provider:
Date of Training: From: To:
Hours:
Degree/Diploma/Certificate:
Major Field/Course of Study:

Employment

Before Entering Military Service

Principal Occupation: RETAIL SALESPERSON
Number of Months: 12
License or Rating: N/A

After Leaving Military Service

Principal Occupation: FILE CLERK
Number of Months: 9
License or Rating: N/A

After Leaving Military Service

Principal Occupation: SPECIAL AGENT
Number of Months: 31
License or Rating: N/A

**ENTITLEMENT TO AND USAGE OF
ADDITIONAL TYPES OF ASSISTANCE**

Did you make additional contributions (up to \$600) to
increase the amount of your monthly benefits? NO

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Appendix A

Do you qualify for a Kicker (sometimes called a College Fund) based on your military service?

Active Duty Kicker: NO

If you graduated from a military service academy, specify the year you graduated and received your commission:

ROTC Scholarship Program and Officer's Commission. Were you commissioned as the result of a Senior ROTC (Reserve Officers Training Corps) Scholarship Program? YES

Date of Commission: 08/04/2007

Scholarship Amounts:

Year 1: Amount: 0

Year 2: Amount: 0

Year 3: Amount: 0

Year 4: Amount: 0

Year 5: Amount: 0

Senior ROTC Scholarship Program. Are you currently participating in a Senior ROTC Scholarship Program which pays for your tuition, fees, books and supplies under Section 2107, Title 10 U.S. Code? NO

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Appendix A

Did you have a period of active duty that the Department of Defense counts for purposes of repaying an education loan? NO

Start Date:

End Date:

For Active Duty Claimants Only. Are you receiving or do you anticipate receiving any money (including but not limited to federal Tuition Assistance) from the Armed forces or Public Health Service for the course for which you have applied to the VA for Education Benefits? If you receive such benefits during any part of your training, check 'Yes.' Note: If you are only applying for Tuition Assistance Top-Up, check 'No' to this item. NO

Is the source of your non-VA assistance a state sponsored tuition assistance program for Guardsmen/Reservists?

For Civilian Employees of the U.S. Federal Government Only. Are you receiving or do you anticipate receiving any money from your agency (including but not limited to the Government Employees Training Act) for the same period for which you have applied to the VA for Education Benefits? If you will receive such benefits during any part of your training, check Yes. NO

**MARITAL AND DEPENDENCY STATUS
(For Applicants with Military Service Before
Jan 1, 1977)**

N/A

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Appendix A

REMARKS

Certification and Signature of Applicant

Signature of Applicant

Date

Certification for Persons on Active Duty

Signature/Title/Branch of Armed Forces Education
Service Officer

Date

Electronically Received by VA: 03/19/2015

Confirmation# : 5108874

**APPENDIX B — CORRESPONDENCE
OF SENATOR TIM KAINE**

UNITED STATES SENATE
WASHINGTON, DC 20510-4607

COMMITTEE ON ARMED SERVICES

COMMITTEE ON FOREIGN RELATIONS

COMMITTEE ON THE BUDGET

SPECIAL COMMITTEE ON AGING

Mr. Rudisill states that the VA is only affording him Chapter 30 GI Bill benefits, when he wishes to utilize Chapter 33 benefits. He feels that he is entitled to this version of the GI Bill and had planned to use the benefits to attend Yale University. Your immediate attention and assistance with the concerns expressed in this case would be greatly appreciated.

I would also appreciate being provided a response that I may forward to Mr. Rudisill explaining the status of his concern. Please respond to my Staff Assistant, Evan McWalters. at 611 S. Jefferson Street, Suite 5B. Roanoke, VA 24011. You may also reach Evan by phone at [REDACTED] or by email at [REDACTED]

Thank you for your assistance to my constituent.

Sincerely,

/s/

Tim Kaine

Appendix B

Weiner, Stuart (CLS-Senate)

From: [REDACTED]
Sent: Friday, March 27, 2015 3:40PM

<ip [REDACTED]></ip>
<prefix>Mr.</prefix>
<firstName>James</firstName>
<miname>Richardson</miname>
<lastName>Rudisill</lastName>
<suffix></suffix>
<nickname>Jim</nickname>
<addr1> [REDACTED]
</addr1>
<city> [REDACTED]</city>
<state> [REDACTED]</state>
<zip> [REDACTED]</zip>
<email> [REDACTED]>
<phone_h> [REDACTED]</phone_h>
<issue> Casework - Veterans Services</issue>
<msg>Social Security Number: [REDACTED]
message: Dear Senator.Kaine,

My name is James Rudisill, date of birth [REDACTED], social security [REDACTED]. I am a veteran of the Kosovo, Iraq (x2), and Afghanistan Campaigns, and I am a proud citizen of our Commonwealth.

I recently submitted the appropriate form to claim Chapter 33 (Post 9/11) benefits to the VA. Their response was less than I had hoped. Since I am qualified and had used part of my Chapter 30 (Montgomery) benefits to fund my

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undergraduate education, and since I still had 10 months and some days remaining of Chapter 30 benefits, the VA wrote me that they will only fund me under Chapter 33 for the time that remains of my Chapter 30 benefits. My Montgomery GI Bill benefits stemmed from a prior period of enlisted service. I was claiming Post 9/11 GI Bill benefits stemming from commissioned military service in Iraq and Afghanistan that was wholly separate from my previous enlisted service. Standing alone, this commissioned service meets all the qualifications as detailed in printed and online information published by the VA.

I immediately called the VA in order to talk to a real person, since all my reading and inquiries prior to making my claim indicated that I was fully qualified for full Post 9/11 benefits.

The education counselor's response was much of what I've already said above. He went on to suggest that I might write a letter to the VA rescinding my claim for Post 9/11 benefits and telling VA that I wished to exhaust my remaining time under Chapter 30. He said that if I exhaust my Chapter 30 benefits, I may reapply under Chapter 33, since I have post-9/11 active service, and receive an additional 20 months under Chapter 33. But this is contingent upon VA accepting my letter and allowing me to reapply under Chapter 30.

Ironically, I am seeking these benefits because I have been accepted to attend Yale Divinity School this coming fall. I intend to become an Episcopal priest and return to the US Army as a Chaplain following my ordination.

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Appendix B

I sincerely apologize for such a long communication, but as I'm sure you can understand, this situation has deeply frightened my wife and I, as we have all along been operating under the information that led us to believe we would be fully covered by my lengthy service and Post 9/11 GI Bill benefits I've earned. We would humbly seek your help in aiding us in securing the full educational benefits I've risked my life, and the welfare of my family, to earn.
ip: [REDACTED] </msg>

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Appendix B

UNITED STATES SENATE
WASHINGTON, DC 20510-4607

Our team may be able to answer basic questions over the phone; however if your situation requires further investigation, a specialist may open a case and initiate a congressional inquiry on your behalf. The Privacy Act of 1974 requires congressional offices to obtain written permission from an individual before a federal agency can release any specific information to the Senator. If you would like to request help, please complete the following Privacy Release Authorization and return it to our Richmond office as directed below. Family members, friends and other interested parties generally may not authorize the release of information on your behalf. As soon as I receive this form, I will be pleased to do everything I can to provide assistance to you.

Timothy M. Kaine
United States Senate

PRIVACY RELEASE AUTHORIZATION

Federal Agency involved*: Department of Veterans Affairs

Briefly describe your; situation: *(use additional page if needed)*

Please see attached

I hereby request the assistance of the Office of Senator Tim Kaine to resolve the matter described above and

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authorize Senator Kaine or his staff to receive any information that may be needed to provide this assistance. The information I have provided is true and accurate to the best of my knowledge and belief. The assistance I have requested from Senator Kaine is in no way an attempt to violate any federal, state or local law.

Full name James Richardson Rudisill /s/ _____

Address* [REDACTED] Date 03/27/2015

City, State, Zip [REDACTED] Phone Number [REDACTED]

Email address [REDACTED]

Social Security number* [REDACTED]

Account/Claim Number*

**Required information*

While we are happy to work on your behalf, we typically avoid opening a constituent case that is currently being handled by another Senator or House member as this may cause delays in resolution. Do you currently have an open case for the matter described above with another U. S. Senator or Representative?

Yes No If yes, please provide the members name

RETURN COMPLETED FORM TO:

Appendix B

Senator Tim Kaine or Fax (804) 771-8313
ATTN: Constituent Services ATTN: Constituent
919 E. Main Street, 970 Services
Richmond, VA 23219

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Appendix B

Dear Senator Kaine,

My name is James Rudisill, date of birth [REDACTED], social security [REDACTED]. I am a veteran of the Kosovo, Iraq (x2), and Afghanistan Campaigns with the US Army, and I am a proud citizen of our Commonwealth.

I recently submitted the appropriate form to claim Chapter 33 (Post 9/11) benefits to the VA. Their response was less than I had hoped. Since I am qualified and had used part of my Chapter 30 (Montgomery) benefits to fund my undergraduate education, and since I still had 10 months and some days remaining of Chapter 30 benefits, the VA wrote me that they will only fund me under Chapter 33 for the time that remains of my Chapter 30 benefits. My Montgomery GI Bill benefits stemmed from a prior period of enlisted service. I was claiming Post 9/11 GI Bill benefits stemming from commissioned military service in Iraq and Afghanistan that was wholly separate from my previous enlisted service. Standing alone, this commissioned service meets all the qualifications as detailed in printed and online information published by the VA.

I immediately called the VA in order to talk to a real person, since all my reading and inquiries prior to making my claim indicated that I was fully qualified for full Post 9/11 benefits.

The education counselor's response was much of what I've already said above. He went on to suggest that I might write a letter to the VA rescinding my claim for Post 9/11 benefits and telling VA that I wished to exhaust my

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remaining time under Chapter 30. He said that if I exhaust my Chapter 30 benefits, I may reapply under Chapter 33, since I have post-9/11 active service, and receive an additional 20 months under Chapter 33. But this is contingent upon VA accepting my letter and allowing me to reapply under Chapter 30.

Ironically, I am seeking these benefits because I have been accepted to attend Yale Divinity School this coming fall. I intend to become an Episcopal priest and return to the US Army as a Chaplain following my ordination.

I sincerely apologize for such a long communication, but as I'm sure you can understand, this situation has deeply frightened my wife and I, as we have all along been operating under the information that led us to believe we would be fully covered by my lengthy service and Post 9/11 G1 Bill benefits. We would humbly seek your help in aiding us in securing the full educational benefits I've risked my life, and the welfare of my family, to earn.

Very Sincerely & respectfully,

/s/

James R. Rudisill

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**APPENDIX C — RESPONSE TO SENATOR KAINÉ
FROM THE DEPARTMENT OF VETERANS
AFFAIRS, DATED APRIL 8, 2015**

**DEPARTMENT OF VETERANS AFFAIRS
REGIONAL OFFICE
130 SOUTH ELMWOOD AVENUE, SUITE 601
BUFFALO NY 14202-2478**

The Honorable Tim Kaine
United States Senator
Attention: Evan McWalters
611 South Jefferson Street, Suite SB
Roanoke, VA 24011

In Reply Refer To: 307/22
CSS XXX XX [REDACTED]
RUDISILL, J. R.

Dear Senator Kaine:

Your inquiry regarding Mr. James R. Rudisill was referred to our office by the Department of Veterans Affairs (VA) Office of Congressional and Legislative Affairs for review and reply. Mr. Rudisill has requested your assistance with revoking his election to VA education benefits under the Post-9111 GI Bill (Chapter 33).

Post-9/11 Veterans Educational Assistance Act of 2008

The Post-9/11 Veterans Educational Assistance Act of 2008 was signed into law on June 30, 2008, and established the Post 9/11 GI Bill (Chapter 33). This benefit provides educational assistance to individuals who served on active

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duty on or after September 11, 2001. Individuals who served on active duty for a minimum of 90 consecutive days on or after September 11, 2001, could potentially qualify for education benefits under this program. Benefits under this program became payable on August 1, 2009, towards training completed after July 31, 2009.

By law, Chapter 33 eligible individuals who are also eligible for benefits under the Montgomery GI Bill – Active Duty Educational Assistance Program (Chapter 30), the Montgomery GI Bill – Selected Reserve Educational Assistance Program (Chapter 1606), or the Reserve Educational Assistance Program (REAP) must relinquish their eligibility to that program in order to receive benefits under Chapter 33.

Under current regulations individuals who qualify for benefits under this program are limited to the amount of Chapter 30 entitlement they have remaining on the effective date of their election to receive Chapter 33 benefits, or up to 12 months of full time benefit entitlement if they have already exhausted their Chapter 30 entitlement prior to the effective date of their Chapter 33 election.

Previous Benefits

Mr. Rudisell previously received 25 months and 14 days of a possible 36 months of benefit entitlement under Chapter 30 for enrollments occurring between July 8, 2003 and May 2, 2007. As of May 2, 2007, Mr. Rudisill had 10 months and 16 days of Chapter 30 entitlement remaining if used prior to August 1, 2021.

*Appendix C***What Our Records Show**

On March 19, 2015, we received Mr. Rudisill's Application For VA Educational Benefits, VA Form 22-1990, on which he made an irrevocable election to Chapter 33 benefits in lieu of Chapter 30, effective March 18, 2015. In electing Chapter 33 benefits, Mr. Rudisill acknowledged that his election was irrevocable and may not be changed.

On March 20, 2015, we issued Mr. Rudisill a Certificate of Eligibility (COE), informing him of his eligibility to 10 months and 16 days of Chapter 33 benefit entitlement. We have enclosed a copy of Mr. Rudisill's COE for your convenience.

Current Regulations

Current regulations state if an individual submits a request to change or withdraw an election to Chapter 33 prior to the election being processed, such as prior to the authorization of a COE and/or the payment of benefits, VA may withdraw or amend the election as requested. However, current regulations do not allow Mr. Rudisill to withdraw his election to Chapter 33 benefits or to amend his elected effective date once VA has processed his application and informed him of his eligibility to Chapter 33 benefits. Therefore, VA cannot cancel Mr. Rudisill's Chapter 33 election and award Chapter 30 since his election to Chapter 33 was processed when we issued him a COE on March 20, 2015.

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Appendix C

If Mr. Rudisill Has Additional Questions

If Mr. Rudisill has any additional questions regarding his education benefits, please advise him to contact our toll-free number, 1-888-GI BILL-1 (1-888-442-4551). He can also contact us by using the Submit a Question link on our website, ***www.benefits.va.gov/gibill***. A Customer Service Representative will be able to assist him.

We trust this information assists you in fully responding to Mr. Rudisill.

Sincerely yours,

DONNA P. MALLIA
Director

Enclosure

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**APPENDIX D — NOTICE OF DISAGREEMENT
DATED JULY 30, 2015**

**HUNTON & WILLIAMS
HUNTON & WILLIAMS LLP
RIVERFRONT PLAZA, EAST TOWER
951 EAST BYRD STREET
RICHMOND, VIRGINIA 23219-4074**

**TEL 804 • 788 • 8200
FAX 804 • 788 • 8218**

**TIMOTHY L. MCHUGH
DIRECT DIAL: 804 • 788 • 8239
EMAIL: TMcHugh@hunton.com**

FILE NO: 99982.000112

July 30, 2015

VIA CERTIFIED MAIL

Department of Veterans Affairs
Buffalo Regional Office
Attn: Kim Wagner
P.O. Box 4616
Buffalo, NY 14240-4616

**Re: Notice of Disagreement- Claim for Post-9/11 GI
Bill Benefits for James R. Rudisill (VA File No.
[REDACTED])**

Appendix D

Dear Ms. Wagner:

I represent James R. Rudisill, a veteran who applied to your office for Post-9/11 GI Bill benefits. This is a notice of disagreement (NOD) with the VA's letters regarding my client dated March 20, 2015, April 8, 2015, and May 21, 2015. The March and May 2015 letters are Certificates of Eligibility issued by you, detailing your interpretation of my client's entitlement to benefits under the Post-9/11 GI Bill; the April 2015 letter is correspondence from Buffalo Regional Office Director Donna P. Mallia to Senator Tim Kaine, describing, among other things, the VA's position regarding the revocability of Mr. Rudisill's election of Post-9/11 GI Bill benefits.

I disagree with all of the adjudicative determinations mentioned in the above-referenced VA letters and any enclosures thereto. This NOD specifically covers all determinations made by the Regional Office, as well as those issues and claims it was required to, but failed to, adjudicate. I am specifically referring to issues that may not be discussed here, or that my client did not specify in his application for benefits or in other correspondence with the VA, but which were reasonably raised by the evidence in Mr. Rudisill's VA claims file or in the VA's possession that should have been inferred by the Regional Office. This appeal also includes adjudicative determinations that were mischaracterized by the Regional Office. If this appeal is not resolved favorably, please send me a Statement of the Case (SOC) so that I may appeal this decision to the Board of Veterans' Appeals (BVA).

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I specifically do **not** seek review of these decisions by a Decision Review Officer, or similar Regional Office employee, at this time, as under 38 C.F.R. § 3.2600.

Sincerely,

/s/ Timothy L. McHugh

Timothy L. McHugh, Esq.
VA Accreditation No. 34130

cc: James R. Rudisill
David J. DePippo, Esq.
Aaron J. Carroll, Esq.

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**APPENDIX E — CERTIFICATE OF ELIGIBILITY,
DATED OCTOBER 18, 2015**

DEPARTMENT OF VETERANS AFFAIRS
BUFFALO REGIONAL OFFICE
P.O. BOX 4616
BUFFALO NY 14240-4616

OCTOBER 28, 2015

MR. JAMES R. RUDISILL 307/22
[REDACTED] JRRUDIS
[REDACTED] XXX-XX-[REDACTED]

Dear Mr. Rudisill:

Certificate of Eligibility

This certifies that you are entitled to benefits for an approved program of education or training under the Post-9/11 GI Bill.

You must take this letter to your school. Your school must certify your enrollment before you can get paid.

You have 10 months and 16 days of full-time benefits remaining

You have until August 2, 2026 to use your benefits under this program, which is fifteen years from your last separation from active duty.

You're entitled to receive 100% of the benefits payable under the Post-9/11 GI Bill program for training offered

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by an institution of higher education. We determined this percentage based on your length of creditable active duty service. We based our decision on the following service information:

Begin Date	End Date	Service Length (in days)	Training Length (in days)	Total (Service/ Training)
11/16/2007	08/01/2011	1,355	0	1,355
06/17/2004	12/27/2005	559	0	559
Total:		1,914	0	1,914

Yellow Ribbon

Because you are eligible at the 100% benefit rate, you may also be eligible to participate in the Yellow Ribbon Program. The Yellow Ribbon Program allows schools to enter into an agreement with VA to provide additional financial assistance to individuals who are charged tuitions and fees that exceed the in-state maximum amount payable under the Post-9/11 GI Bill program. This benefit is only payable if the Post-9/11 GI Bill tuition and fee payment does not cover the full cost of your school's tuition and fees.

Note: Individuals on active duty are not eligible for this program. The Yellow Ribbon Program is not available at all schools. To determine if your school participates or to get a list of Yellow Ribbon Program participating schools please visit www.GIBILL.va.gov.

Appendix E

What You Must Do

You should take this letter to your school's veterans certifying official as proof of your eligibility and ask him or her to submit your enrollment certification to VA. After your school submits your enrollment certification, your tuition and fees payment will be sent to the school on your behalf. All other payments will be sent directly to you.

Other Information

You should promptly notify your school's veterans certifying official and VA if there is any change in your enrollment. Generally, we can't pay you for:

- Courses you don't attend.
- Courses from which you withdraw.
- Courses you complete but receive a grade which will not count towards graduation.

You are responsible for ALL debts resulting from reductions or terminations of your enrollment even if the payment was submitted directly to the school on your behalf.

You may notify VA via:

- The Internet by visiting www.GIBILL.va.gov

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- Telephone by calling toll-free at 1-888-GI-BILL-1 (1-888-442-4551).
- Postal mail by sending correspondence to the address at the top of this letter.

If You Have Questions or Need Assistance

If you have questions or need assistance, contact the Department of Veterans Affairs at 1-888-GI-BILL-1 (1-888-442-4551).

If you use the Telecommunications Device for the Deaf (TDD), the Federal number is 711. See the “If You Need Help” enclosure for contact information.

Sincerely,

/s/

Kim Wagner
Education Officer

Enclosures: VA Form 4107
If You Need Help

cc: Timothy L McHugh

Appendix E

Department of Veterans Affairs **YOUR RIGHTS TO
APPEAL OUR DECISION**

After careful and compassionate consideration, a decision has been reached on your claim. If we were not able to grant some or all of the VA benefits you asked for, this form will explain what you can do if you disagree with our decision. If you do not agree with our decision, you may:

- appeal to the Board of Veterans' Appeals (the Board) by telling us you disagree with our decision
- give us evidence we do not already have that may lead us to change our decision

This form will tell you how to appeal to the Board and how to send us more evidence. You can do either one or both of these things.

NOTE: Please direct all new evidence to the address at the top of our letter. Do not send evidence directly to the Board until you receive written notice from the Board that they received your appeal.

**WHAT IS AN APPEAL TO THE BOARD OF
VETERANS' APPEALS?**

An appeal is your formal request that the Board review the evidence in your VA file and review the law that applies to your appeal. The Board can either agree with our decision or change it. The Board can also send your file back to us for more processing before the Board makes its decision.

*Appendix E***HOW CAN I APPEAL THE DECISION?**

How do I start my appeal? To begin your appeal, write us a letter telling us you disagree with our decision. This letter is called your “Notice of Disagreement.” If we denied more than one claim for a benefit (for example, if you claimed compensation for three disabilities and we denied two of them), please tell us in your letter which claims you are appealing. *Send your Notice of Disagreement to the address at the top of our letter.*

What happens after VA receives my Notice of Disagreement? We will either grant your claim or send you a Statement of the Case. A Statement of the Case describes the facts, laws, regulations, and reasons that we used to make our decision. We will also send you a VA Form 9, “Appeal to Board of Veterans’ Appeals,” with the Statement of the Case. You must complete this VA Form 9 and return it to us if you want to continue your appeal.

How long do I have to start my appeal? You have one year to appeal our decision. *Your* letter saying that you disagree with our decision must be postmarked (or received by us) within one year from the date of *our* letter denying you the benefit. In most cases, you cannot appeal a decision after this one-year period has ended.

What happens if I do not start my appeal on time? If you do not start your appeal on time, our decision will become final. Once our decision is final, you cannot get the VA benefit we denied unless you either:

Appendix E

- show that we were clearly wrong to deny the benefit *or*
- send us new evidence that relates to the reason we denied your claim

Can I get a hearing with the Board? Yes. If you decide to appeal, the Board will give you a hearing if you want one. The VA Form 9 we will send you with the Statement of the Case has complete information about the kinds of hearings the Board offers and convenient check boxes for requesting a Board hearing. The Board does not require you to have a hearing. It is your choice.

Where can I find out more about appealing to the Board?

- You can find a “plain language” booklet called “How Do I Appeal,” on the Internet at: http://www.bva.va.gov/How_Do_I_Appeal.asp. The booklet also may be requested by writing to: Mail Processing Section (014), Board of Veterans’ Appeals, 810 Vermont Avenue, NW, Washington, DC 20420.
- You can find the formal rules for appealing to the Board in the Board’s Rules of Practice at title 38, Code of Federal Regulations, Part 20. You can find the complete Code of Federal Regulations on the Internet at: <http://www.gpoaccess.gov/cfr/index.html>. A printed copy of the Code of Federal Regulations may be available at your local law library.

Appendix E

Can I get someone to help me with my appeal to the Board? Yes. You can have a veterans' service organization representative, an attorney-at-law, or an "agent" help you with your appeal. But you are not required to have someone represent you. It is your choice.

- Representatives who work for accredited veterans' service organizations know how to prepare and present claims and will represent you. You can find a listing of these organizations on the Internet at: <http://www.va.gov/vso>.
- A private attorney or an "agent" can also represent you. If applicable, your local bar association may be able to refer you to an attorney with experience in veterans' law. VA only recognizes attorneys who are licensed to practice in the United States or in one of its territories or possessions. An agent is a person who is not a lawyer, but who VA recognizes as being knowledgeable about veterans' law. Contact us if you would like to know if there is a VA accredited agent in your area.

Do I have to pay someone to help me with my appeal to the Board? It depends on who helps you. The following explains the differences.

- Veterans' service organizations will represent you for free.
- Attorneys or agents can charge you for helping you under some circumstances. Paying their fees for

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helping you with your appeal to the Board is your responsibility. If you do hire an attorney or agent to represent you, one of you must send a copy of any fee agreement to the following address within 30 days from the date the agreement is executed: Office of the General Counsel (022D), 810 Vermont Avenue, NW, Washington, DC 20420. *See* 38 C.F.R. 14.636(g). If the fee agreement provides for the direct payment of fees out of past-due benefits, a copy of the agreement must also be filed with us at the address at the top of our letter. *See* 38 C.F.R. 14.636(h)(4).

CAN I GIVE VA ADDITIONAL EVIDENCE?

Yes. You can send us more evidence to support a claim whether or not you appeal to the Board. **If you want to appeal, though, do not forget the one-year time limit!**

If you have more evidence to support a claim, it is in your best interest to give us that evidence as soon as you can. We will consider your evidence and let you know whether it changes our decision. Please keep in mind that we can only consider new evidence that: (1) we have not already seen and (2) relates to your claim. You may give us this evidence either in writing or at a personal hearing.

In writing. To support your claim, you may send documents and written statements to us at the address on the top of our letter. Tell us in a letter how these documents and statements should change our earlier decision.

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At a personal hearing. You may request a local hearing with us at any time. This hearing is separate from any Board hearing you might ask for later if you appeal. We do not require you to have one. It is your choice. At this hearing, you may speak, bring witnesses to speak on your behalf, and hand us written evidence. If you want a hearing, send us a letter asking for a hearing. Use the address at the top of our letter. We will then:

- arrange a time and place for the hearing
- provide a room for the hearing
- assign someone to hear your evidence
- make a written record of the hearing

WHAT HAPPENS AFTER I GIVE VA EVIDENCE?

We will review the record of the hearing and other new evidence, together with the evidence we already have. We will then decide if we can grant your claim. If we cannot grant your claim and you appeal, we will send the new evidence and the record of any local hearing to the Board.

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Department of Veterans Affairs

IF YOU NEED HELP

If you need help with your VA education benefits, you can contact us in the following ways:



VA has a national education Home Page on the World Wide Web (internet) where you can get information about VA education benefit programs. The National Home Page address is:

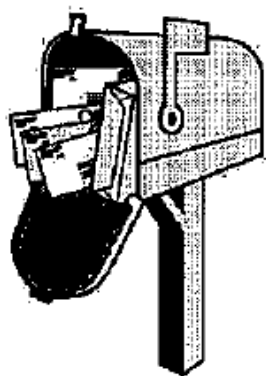
<http://www.benefits.va.gov/gibill>

You can ask a question about your education claim by choosing the “Submit a Question” option from the home page, and following the instructions on the screen.



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If you need help with your VA education benefits, you can call toll-free from the U.S. by dialing **1-888-GI-BILL-1** (1-888-442-4551.) If you use the Telecommunications Device for the Deaf (TDD), the Federal Relay number is 711.

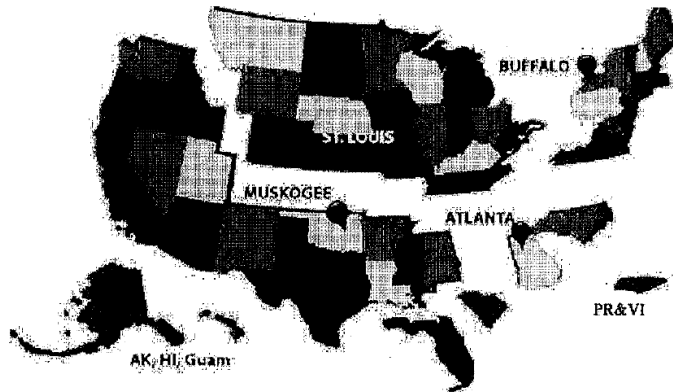


You can **mail** inquiries or claims for education benefits to your Regional Processing Office. See the back of this sheet for instructions.

Which VA Office Handles Your Education Claim?

There are four regional education processing offices that handle claims for the entire country, which we have divided into regions. The map below shows the states in each region. Find the state where you'll be attending school or job training. You should **mail** inquiries or claims for education benefits to the processing office for that region.

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CENTRAL REGION:
VARegional Office
PO Box 66830
St. Louis, MO 63166-6830

EASTERN REGION:
VARegional Office
PO Box 4616
Buffalo, NY 14240-4616

WESTERN REGION:
VARegional Office
PO Box 8888
Muskogee, OK 74402-8888

SOUTHERN REGION:
VARegional Office
PO Box 100022
Decatur, GA 30031-7022

APPENDIX F — STATEMENT OF THE CASE

JR RUDIS

Department of Veterans Affairs
Regional Processing Center
P.O. Box 4616
Buffalo NY 14240-4616

STATEMENT OF THE CASE

In the Appeal of

James R. Rudisill

Represented by: Timothy L. McHugh, Esq.

From the Decision of the Department
of Veteran Affairs

NOTICE TO APPELLANT:

This is not a decision on the appeal you have initiated. It is a “Statement of the Case” which the law requires us to furnish to help you in completing your appeal.

Please read the forwarding letter carefully, as well as the instructions on the enclosed appeal form. These explain your appeal rights and tell you what you must do to complete your appeal.

If there is any other evidence or information that you think will support your claim, please let us know.

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ISSUE:

Eligibility to the Post 9/11 GI Bill (Chapter 33).

EVIDENCE:

- 03-19-15 Received VA Form 22-1990 Application for VA Educational Benefits, from the client, electing Post 9/11 GI Bill benefits in lieu of the Montgomery GI Bill (Chapter 30) Educational Assistance Program effective March 18, 2015. The client indicated on the application that she was commissioned as a result of ROTC scholarship.
- 03-19-15 A review of the client's Montgomery GI Bill (Chapter 30) usage showed that, as of the last enrollment received for him for the term ending May 3, 2007, he had 10 months and 16 day or entitlement remaining.
- 03-19-15 A review of the client's electronic service data listed a period of service performed as a student in the Army Military Service Academy from July 1, 2002 to May 28, 2003 for 331 day.
- 03-20-15 Requested verification from the U.S. Army Human Resources Command Point of Contact regarding the client and whether they had a Service Academy/ROTC obligation.

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- 08-03-15 Received a Notice of Disagreement from the client's representative.
- 10-26-15 Requested verification from the U.S. Army Human Resources Command Point of Contact regarding the client and whether they had a Service Academy/ROTC obligation or attended a Service Academy or Prep School.

ADJUDICATION ACTIONS:

- 03-20-15 Issued the client a Certificate of Eligibility under the Post 9/11 GI Bill at the 90% benefit level. The letter explained that he had 10 months and 16 days of entitlement to use by August 2, 2026.
- 05-21-15 Received response from the U.S. Army Human Resources Command Point of Contact which stated they had no proof of Service Academy or ROTC.
- 05-21-15 Issued the client a supplemental Certificate of Eligibility under the Post 9/11 GI Bill at the 100% benefit level based on the U.S. Army Human Resources Command Point of Contact response. The letter explained that he had 10 months and 16 days of entitlement to use by August 2, 2026.
- 10-26-15 Received response from the U.S. Army Human Resources Command Point of Contact which

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confirmed attendance in USMA Prep School until June 30, 2002 but no obligated period of service since there was no record of USMA graduation.

10-28-15 Issued the client a supplemental Certificate of Eligibility under the Post 9/11 GI Bill at the 100% benefit level based on the U.S. Army Human Resources Command Point of Contact response. The letter explained that he had 10 months and 16 days of entitlement to use by August 2, 2026.

DECISION:

James R. Rudisill's claim for additional entitlement under the Post 9/11 GI Bill benefits (Chapter 33) remains denied.

REASONS FOR DECISION:

In the letter of appeal, the representative of the client stated that he disagrees with all of the adjudicative determinations made by the Regional Office, specifically mentioning the revocability of Mr. Rudisill's election of Post-9/11 GI Bill benefits.

A review of the client's records shows that on the date of his application for the Post-9/11 GI Bill he had 10 months and 16 days of benefits remaining under the Montgomery GI Bill (Chapter 30) benefit program.

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Under the regulations which govern the Post 9/11 GI Bill, a client who elects to receive benefit under the Post 9/11 GI Bill and who is eligible for the Montgomery GI Bill (Chapter 30) benefit is required to make an irrevocable election to relinquish his Chapter 30 benefits when claiming the Post 9/11 GI Bill. The law further states that entitlement to the Post 9/11 GI Bill will be equal to the client's remaining entitlement under Chapter 30 on the effective date of the client's irrevocable election.

The VA received the client's irrevocable election of Post-9/11 GI Bill benefits on March 19, 2015, relinquishing his Chapter 30 benefits with an election date of March 18, 2015. The client's election was submitted electronically via the Internet on VA Form 22-1990, which included acknowledgements that the client's entitlement could not exceed his remaining Chapter 30 entitlement, and that an election of Post-9/11 GI Bill was irrevocable and cannot be changed. Based on the client's election, the law dictates that the VA grants entitlement under the Post-9/11 GI Bill not to exceed his remaining Chapter 30 entitlement.

There are no provisions of the law which would allow the VA to grant additional entitlement to the client which exceeds his remaining Chapter 30 entitlement on the effective date of his election. Therefore, the client's request for additional entitlement under the Post-9/11 GI Bill remains denied because he had 10 months and 16 days of entitlement remaining under Chapter 30 on the effective date of his relinquishment of that program.

**APPENDIX G — SAMPLE
ELECTRONIC APPLICATION**

A Service of the Department of Veterans Affairs and the
Department of Defense

Apply Manage Learn National Employment Contact
Resource Center
Directory

Access to Navy Official Military Personnel Files, including
DD Form 214, will be unavailable from 2000 ET on
Tuesday 05 April to 0800 ET on Monday 25 April at the
earliest. We apologize for any inconvenience.

The Federal Individual Recovery Plan (FIRP) is
currently unavailable, but is expected to be available in
our next release at the end of April. We apologize for any
inconvenience.

Go to the Start section/ You are currently in the Interview
section/Go to the Final Steps section

FAQ HELP Contents

What is Chapter 33: 1. Education benefit being applied
Post 9/11 GI Bill? for:

Chapter 33- Post-9/11 GI Bill

What is Chapter 33 Election. Complete
Montgomery GI this section only if this is your first
Bill - Active Duty? request for Chapter 33 benefits.

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By electing Chapter 33, I acknowledge that I understand the following:

What is Montgomery GI Bill-Selected Reserve?

I may not receive more than a total of 48 months of benefits under two or more programs.

If electing chapter 33 in lieu of chapter 30, my months of entitlement under chapter 33 will be limited to the number of months of entitlement remaining under chapter 30 on the effective date of my election.

My election is *irrevocable* and may not be changed.

What are VEAP and Noncontributory VEAP?

I elect to receive Chapter 33 Education Benefits in lieu of the Education Benefit checked below, effective ... _____
(Date: mm/dd/yyyy)

How are the educational programs different?

- Chapter 30:MGIB
- Chapter 1606:MGIB-SR
- Chapter 1607:REAP
- Not eligible for any of the other listed benefits

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- Can I be eligible for more than one benefit?
- Chapter 30 - Montgomery GI Bill Educational Assistance Program (MGIB)
 - Chapter 1606 - Montgomery GI Bill Selected Reserve Educational Assistance Program (MGIB-SR) (MGIB-SR)
 - Chapter 32 or Section 903 - Post-VietNam Era Veterans' Program (VEAP)

Frequently Asked Questions

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Print Claim / Validate Claim /

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About	About	Our Policies	Other
eBenefits	Veterans	VA Privacy	Government
About	Affairs	Policy	Site
eBenefits	VA Home	VA Web	Forms.gov
Outage	About VA	Policies	DoD Forms
Calendar	VA Forms	Regulations &	White House
Policies	KnowVA	Guidance	USA.gov
Promotional	FAQs	Documents	Regulations.gov
Social	VA Facility	VA Freedom of	GovBenefits.gov
Media	Locator	Information	Serve.gov
Help	Contact	Act	DefenseLINK
Contact Us	VA	NO Fear Act	DoD Freedom of
		Data	Information Act
		Section 508	(FOIA)
		Accessibility	

**APPENDIX H — UNITED STATES CODE
CONGRESSIONAL AND ADMINISTRATIVE
NEWS OF THE 90TH CONGRESS—
SECOND SESSION**

UNITED STATES CODE
CONGRESSIONAL AND
ADMINISTRATIVE NEWS

90th Congress—Second Session
1968

Convened January 15, 1968
Adjourned October 14, 1968

Volume 3

**LEGISLATIVE HISTORY
PROCLAMATIONS
EXECUTIVE ORDERS
REORGANIZATION PLANS
TABLES and INDEX**

LEGISLATIVE HISTORY

The item description will provide greater clarity and certainty in classification and in particular, will avoid a conflict with the definition of liquid sugar as set forth in the Sugar Act of 1948 (7 U.S.C. 1101(f)).

The amendment provides that the provision described above will be effective on or after the date of enactment of the bill. It is further provided that the entries of articles described under 155.40 which were made after August 30, 1963, and before the date of enactment, may be liquidated

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or reliquidated as though such entries or withdrawals had been made on the date of enactment. This provision for retroactive liquidation or reliquidation is subject to a request being filed therefor with the customs officer concerned on or before the 120th day after enactment.

The amendment further provides for the liquidation or reliquidation of certain entries of sugar at Philadelphia, Pa., at the rate of duty of 0.012 cent per pound of total sugars, upon the furnishing of appropriate evidence that the sugar was not used for human consumption or for the commercial extraction of sugar.

Favorable reports on this amendment were received from the Departments of State, Treasury, Agriculture, and Commerce. An informative report was received from the Tariff Commission.

VETERANS—EDUCATIONAL ASSISTANCE

P.L. 90-631, see page 1555

**House Report (Veterans' Affairs Committee)
No. 1379, May 14, 1968 [To accompany H.R. 16025]**

**Senate Report (Labor and Public Works Committee)
No. 1394, July 11, 1968 [To accompany H.R. 16025]**

Cong. Record Vol. 114 (1968)

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DATES OF CONSIDERATION AND PASSAGE

House May 20, Oct. 10, 1968

Senate July 15, Oct. 11, 1968

The Senate Report is set out.

SENATE REPORT NO. 1394

THE Committee on Labor and Public Welfare to which was referred the bill (H.R. 16025) to amend title 38 of the United States Code with respect to eligibility for, and the period of limitation on, educational assistance available under part III of such title, and for other purposes, having considered the same, reports favorably thereon within amendments and recommends that the bill as amended do pass.

BACKGROUND OF THE BILL

The U. S. Veterans' Advisory Commission in its report urged the establishment of an educational assistance program for widows receiving DIC. The formal recommendation follows:

RECOMMENDATION NO. 30

The Commission recommends establishment of an educational assistance program for widows receiving DIC.

*Appendix H***Background to recommendation**

Upon the deaths of their husbands, widows of veterans who die from service-connected disabilities often face an abrupt loss of adequate financial support, and must, in many instances, adjust their living standards to a substantially lower level. Barring employment or remarriage, their expectations for income are limited to VA benefits and, perhaps, to social security. At present, the current monthly DIC payment for all widows averages \$153.79.

The modest security provided by DIC should not induce widows to lead withdrawn or sheltered lives. It is preferable and necessary to encourage widows to return to the “mainstream,” both economically and socially. This goal could be furthered through additional training and education.

Additional training would make it possible for widows to supplement their income, thereby enabling them to achieve a comfortable standard of living. The national economy would benefit from such training because the costs of training would eventually be returned as additional income tax revenues. In addition, the Nation would gain needed skills for its manpower resources.

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Widows receiving DIC as of June 30, 1967, numbered 153,105. Of these, an identifiable group now evolving from the hostilities in Vietnam (and elsewhere around the globe) is estimated in excess of 8,300. These younger widows have attracted considerable concern because many of them were married before they had a chance to complete their education or to practice their skills in a work setting. It is obvious that this group would benefit from additional education and training. Older widows receiving DIC would also gain, for now they often experience difficulty in finding employment because of their age or because their skills are outmoded.

The Commission recommends a training program for all widows receiving DIC. We believe such training should be directed toward a goal assuring employment, rather than function as a program of general education.

Under our program, financial assistance would be provided each eligible widow by increasing her DIC at the rate of \$100 per month while enrolled in and pursuing an approved full-time program. For minimum schooling of three regular class sessions per week, widows would receive \$60 per month in addition to DIC payments. Entitlement to training would extend for a maximum of 36 months. Eligibility for enrollment in this program would expire at

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the end of 8 years from the date of death of the veteran from whom eligibility is derived or from the date of legislative enactment, whichever is later.

Criteria for approval of courses and measurement of full- and part-time training would parallel those which apply to enrollment under chapter 35, United States Code, title 38. Counseling for this training program would be optional but required for a second change in program or for reentry after termination for unsatisfactory progress or conduct.

Another important recommendation of the Commission was:

RECOMMENDATION NO. 31

The Commission recommends establishment of an educational assistance program for wives of veterans who have a total disability, permanent in nature, resulting from a service-connected disability.

Background to recommendation

Totally disabled veterans and their families must rely on VA compensation for support. Although this level of maintenance is above poverty criteria, it is, in most cases, much less than the standard of living which the veteran,

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but for his service disability, could have expected to provide for his family.

It is seldom possible to rehabilitate the totally disabled veteran economically. Therefore, an equitable alternative lies in a program of educational assistance for the veteran's wife. Such a program would enable her to supplement the income of the family of the veteran totally incapacitated due to service.

Thus, the Commission recommends a program of education and training for the wives of veterans who have a total disability, permanent in nature, resulting from a service-connected disability. This program would be similar in all respects to that proposed for widows receiving DIC, except that eligibility for enrollment would expire at the end of 8 years from the date of a veteran's total disability rating or from the date of legislative enactment, whichever is later.

Combined educational entitlement

Section 1 provides that a veteran who is eligible under the current so-called GI bill of rights (Public Law 89-358) and who received benefits under the war orphans benefit program, the vocational rehabilitation program, or the World War II or Korean war GI bills can earn an additional 12 months' educational entitlement for a maximum under both programs of 48 calendar months.

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Current law (38 U.S.C. 1661) provides that the months of educational assistance furnished to any eligible veteran when combined with any education and training received under the World War II or the Korean GI bill, the war orphans education program, as well as the receipt of vocational rehabilitation training, may not exceed 36 months. H.R. 16025 would modify this to allow an eligible veteran to use at least 12 months of any entitlement that he earned as a result of post-Korean service, notwithstanding the fact that he had previously received a full 36 months of education or training under one or more of the other Veterans' Administration education assistance program or programs. The bill also removes the requirement that a person who is entitled both to educational assistance and to vocational rehabilitation must make an irrevocable election between such benefits.

The new GI educational assistance program is intended to assist the veteran in readjusting to civilian life following his period of post-Korean service. The fact that he may have had previous training at Government expense under a different program may minimize, and in many cases might obviate, the need for further readjustment assistance; but, if the veteran finds that he does need additional education, such as a master's degree to successfully enter into a teaching profession, the opportunity should be open to him. The notion is that we reward extra service and recognize that further education today may be necessary for adequate readjustment.

*Appendix H***Liberalized educational entitlement**

Section 1 also provides that each eligible veteran shall be entitled to educational assistance under chapter 34 of title 38, United States Code, for a period equal to one and a half times the duration of his service on active duty after January 31, 1955 (or the equivalent thereof in part-time educational assistance). This provision was originally proposed by Senator Yarborough in S. 3349:

When Congress passed the Korean war GI bill, we saw to it that our veterans were made eligible for educational assistance or training for a period equal to 1½ times their active duty service. Thus, a serviceman who had served his country for 24 months was eligible for 36 months of educational benefits—enough to get a full 4-year college degree.

Two years ago, after a long and difficult struggle, Congress passed the cold war GI bill—a measure which took a fundamental step in giving to our men in uniform the opportunity to readjust to civilian society after having served their country. But, although vital and necessary, the cold war GI bill, when contrasted with the Korean war GI bill, is inadequate and unequitable.

Korean veterans became eligible for assistance at the rate of 1 days of assistance to 1 of active duty service. But cold war veterans

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were made eligible for educational assistance or training for a period only equal to their active duty service, a 1-to-1 ratio. Thus, under the cold war bill, a serviceman who has served his country for 24 months is eligible for only 24 months of educational benefits—enough to cover just 2 years of college.

That Congress should have perpetrated a system which on its face is so inadequate and unequitable is difficult enough to justify—but to have done so at a time when the importance of a college degree is becoming more and more manifest and when the cost of attaining that degree is sky-rocketing is all the more serious.

This committee finds no rationale for the proposition that our cold war and Vietnam veterans are in some way less deserving than our Korean veterans, or that an investment in them and in the future of our country need not be as great as the investment we made in our Korean era veterans. The benefits accorded under the cold war GI bill need to be put in line with reality.

An identical provision was approved by the Senate last year as part of an omnibus bill with amendments to the cold war GI bill. In conference with the House, the provision finally was dropped to avoid losing the whole bill, which included important programs for on-the-job training, on-the-farm training and flight training.

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The committee is particularly disturbed at the negative attitude of the Veterans' Administration with respect to providing 1½ months educational assistance for each month on active duty. The sole reason given by the Veterans' Administration in favor of the present system is that it induces a person to stay in the service for an extra year to earn full entitlement. The committee feels that it is a shocking disregard of responsibility for the Veterans' Administration to take such a stand against the best interests of our Nation's veterans endorsing the withholding of deserved benefits in order to induce the individuals concerned to stay in the service.

An excerpt from the hearing record on this point follows:

Senator Yarborough. Let me ask you, do you think the Korean GI bill was too generous in allowing a month and half of training for each month of service?

Mr. Farmer [Veterans' Administration]. No, sir; I do not.

Senator Yarborough. All right.

Do you think that these veterans ought to be discriminated against and not treated equally as well as those of the Korean conflict?

Mr. Farmer. Well, the reason I said—no, sir; because that was a law, and we administer

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the law as we get it. But I would also submit to you—

Senator Yarborough. Do you think it was unfair in providing for a month and a half of training for each 1 month of service?

Mr. Farmer. Well, sir, subscribe to the point of view if we can induce a young man to be of more service this country—

Senator Yarborough. In other words, if you can induce him to stay in longer, you ought to deprive his benefits?

Mr. Farmer. I think this is a desirable tactic.

Senator Yarborough. I think that is a horrible position for the Veterans' Administration to take. It will deny him the benefits that have gone to 19 million veterans—no, 21 million veterans of World War II and the Korean conflict if, by that denial, we can force them to stay in longer.

* * * * *

Mr. Farmer. Because of the desirable effects on them, on the reenlistment rate, we are adopting the position that we are today.

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Senator Yarborough. Your position is just the Defense Department—

Mr. Farmer. We are acting in concert with the Armed Forces.

Educational benefits for widows

Section 2 of the bill extends the provisions of the war orphans' education program to the widow of any person who died of a service-connected disability or the wife of any person who has a total disability, permanent in nature, resulting from a service-connected injury or disease. Benefits provided in section 2 would not be applicable to a widow who has remarried. In line with the current provisions of VA education laws, there is an 8-year time limitation for a widow or wife to complete the educational assistance program of 36 months at \$130 a month—8 years from the effective date of this proposal or 8 years from the date of death of the veteran or decision of total disability, whichever is the later.

Correspondence courses

Section 3 is in line with the current provisions of Public Law 89-358, as amended by Public Law 90-77, applicable to flight training and provides that any veteran who is pursuing a program of education exclusively by correspondence shall be charged 1 month of eligibility entitlement for each \$130 which is paid to the veteran as an educational assistance allowance.

*Appendix H***On-the-farm training**

Section 3 would also liberalize the current 12-hour-per-week requirement of classroom instruction for eligible veterans pursuing a program of farm cooperative training to require at least 200 hours per year (and at least eight hours each month) of such classroom instruction.

This provision was originally proposed by Senator Yarborough in S. 3349:

Last year, when Congress passed the GI bill amendments—Public Law 90–77—we incorporated a farm cooperative program which enabled returning veterans engaged in agricultural employment to obtain assistance for institutional agricultural courses. As is often the case, the provision the Senate passed was adequate, but in having to compromise with the House to get a bill adopted, the program was changed.

When the compromise was offered, the Veterans' Administration had indicated that the language would lead to a program of full and available participation. That has not been the case.

As the provision now stands, a veteran, in order to qualify, has to enroll in at last 12 clock hours of classes per week. For an agricultural worker employed within minutes

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of his classroom this is fine. But more often than not, the agricultural worker is employed at a great distance from the classroom, so that it is virtually impossible for him to hold down a full-time job and commute the hundreds of miles a week necessary to fulfill the 12-hour requirement.

The result has been that under the present on-farm-training program, a total of only 116 veterans have participated. This is in shocking contrast to earlier programs. For under the World War II GI bill, 700,000 veterans received on-the-farm training, and under the Korean GI bill, 100,000 veterans received on-the-farm training.

There is at present considerable apprehension over the steady decline in the number of family farms in the United States, and over the current low levels of farm income. Additionally, there is world-wide concern over impending food shortages which could eventually result in disastrous famine in many parts of the globe. This provision of H.R. 16025 aimed at maintaining the highest possible levels of agricultural production in the United States. It can enhance the opportunity for young veterans and their families to establish themselves in the business of farming.

State approval agencies

Section 4 would authorize the Veterans' Administration to reimburse State approval agencies—which examine and

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certify schools as acceptable for study under GI bill—for administrative costs (present reimbursement covers salary and travel of employees).

Under existing law the Administrator of Veterans' Affairs is authorized to pay State and local agencies for reasonable and necessary expenses of salary and travel of employees of State agencies in rendering necessary services for evaluating and supervising the several educational programs administered by the Veterans' Administration insofar as they relate to educational institutions in a given State. Section 4 would provide an allowance for administrative costs, the exact amount of which would be determined by the size of the contract, between the Veterans' Administration and the State, for the amount of salary. Thus if the amount of salary was \$5,000 or less a year, the administrative expenses would be limited to \$250. In a State which had many institutions subject to supervision by the State approval agency, and the salary allowance was more than \$80,000, the amount for administrative expenses would be \$5,285 for the first \$80,000 of salary expenses plus \$300 for each additional \$5,000 or fraction thereof.

Flight training

Section 5(a) would authorize the Administrator to approve the pursuit by an eligible veteran of flight training where such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation or where generally accepted as ancillary to the pursuit of a vocational endeavor other than aviation,

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subject to certain conditions. This provision was originally proposed by Senator Yarborough in S. 3350:

This would extend advanced flight training assistance to eligible veterans who, although not interested in pursuing a career in commercial aviation as such, find that their ability to pilot an aircraft would expand their opportunities in earning a livelihood. For example, it could well permit a physician to bring his lifesaving skills to otherwise remote and inaccessible sections of the Nation. Less dramatically, it could enable a salesman to see a greater number of prospective purchasers more often and yet devote more time to home and family. Similarly it would help, for example, the modern-day ranchers who use small aircraft to spot and herd cattle.

Section 5 (b) would authorize the payment of the educational assistance allowance to eligible veterans pursuing flight training under chapter 34 of title 38, United States Code, on a monthly basis upon receipt of a certificate from the veteran and the institution as to actual flight training received by, and the cost thereof to, the veteran during such month. This provision was originally proposed by Senator Gruening in S. 3476:

This would relieve the financial burden on the veteran trainee of waiting for 2 months to receive funds to which he is entitled.

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Section 5(c) would authorize the Administrator to make a loan to a veteran wishing to pursue a course of flight training but who lacks the private pilot's license and is not otherwise entitled to such license, in order that he might obtain the flight training required for a private pilot's license. Such loan would not exceed \$500 and would bear interest not to exceed 6 percent per annum. The amount of the loan would be repayable in equal monthly installments over a period of time not exceeding 3 years commencing upon the failure of the veteran to enter upon a course of flight instruction within 1 year after completing the requirements for or obtaining a private pilot's license. A third of the loan, plus interest, would be canceled for each calendar year of service performed by the veteran in a recognized vocational field in aviation entered upon pursuant to the flight training received under this provision. It does not specify the condition under which the loan would be repaid by veterans who stop short of completion of their training or who do not promptly enter a vocational field in aviation upon completion of training. It is intended that the Veterans' Administration would provide for these contingencies under the general authority of the Administrator.

As a condition for obtaining assistance under the flight training provisions, the eligible veteran under present law must have a valid private pilot's license or have satisfactorily completed the number of hours of flight training instruction required for such a license. As it turns out, it costs an average of \$500 to obtain a private pilot's license. As a result the

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very individuals who desire and need to take advantage of the flight training provisions are unable to because they cannot afford to meet the basic requirement of having a license or qualifying for one. Section 5 (c) will enable the Administrator to extend short-term loans to qualifying veterans to obtain a pilot's license.

Section 6 specifies an effective date for sections 1, 2, 3, and 5 as the first day of the second calendar month which begins after the date of enactment of this act; and section 4 is effective for the periods beginning after June 30, 1968.

The Veterans' Administration estimates that the first-year cost of the provision in section 1 on combined educational entitlement would be nominal. There is no accurate estimate of the cost of the provision for liberalized educational entitlement.

The estimated first-year cost of section 2 is \$7.5 million.

The Veterans' Administration's estimate of the cost of section 3 is based on the assumption that participation under the amended provision would jump from 116 veterans to 27,000 veterans. On a more realistic assumption of an increase to perhaps 4,000, estimated cost would be in the neighborhood of \$4 million.

Estimated first-year cost of section 4 is \$140,000.

Estimated first-year cost of section 5 is \$4.5 million.

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Hearings on the bills were held before the Subcommittee on Veterans' Affairs on July 1, 1968.

The appropriate reports of the Veterans' Administration follow:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS AFFAIRS,
Washington, D.C., June 28, 1968.

Hon. LISTER HILL,
*Chairman, Committee on Labor and, Public Welfare,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This will respond to your request for a report from the Veterans' Administration on H.R. 16025, 90th Congress, an act to amend title 38 of the United States Code with respect to eligibility for, and the period of limitation on, educational assistance available under part III of such title, and for other purposes, as passed by the House on May 20, 1968.

H.R. 16025 proposes several changes in the educational assistance programs for veterans and for the children of deceased or permanently disabled veterans. More specifically:

Section 1 would permit a veteran who is eligible for educational assistance under the current GI bill (chapter 34 of title 38, United States Code) and who received benefits under the war orphans' educational assistance

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program (chapter 35 of title 38, United States Code), the vocational rehabilitation program for disabled veterans (chapter 31 of title 38, United States Code), or the World War II or Korean GI bills, to combine his entitlement in order to receive a maximum of 48 months of education.

Section 2 extends war orphans' educational assistance benefits to the widow of any person who died of a service-connected disability or the wife of any veteran who has a total disability, permanent in nature, resulting from a service-connected injury or disease.

Section 3 revises the method of charging entitlement in the case of veterans pursuing correspondence courses to provide that 1 month of eligibility shall be charged for each \$130 paid to him as an educational assistance allowance.

Section 4 authorizes payment by the Veterans' Administration to State and local agencies for administrative expenses incurred by them in evaluating and supervising veterans' educational programs administered by the Veterans' Administration.

Current law (38 U.S.C. 1661) provides that the months of educational assistance furnished to any eligible veteran when combined with any education and training received under the World War II or the Korean GI bill, the war orphans' education program, as well as the receipt of vocational rehabilitation training, may not exceed 36 months. H.R. 16025 would modify this to allow an eligible veteran to use at least 12 months of any entitlement that he earned as a result of post-Korean service, notwithstanding

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the fact that he had previously received a full 36 months of education or training under one or more of the other Veterans' Administration education assistance program or programs. The bill also removes the requirement that a person who is entitled both to educational assistance and to vocational rehabilitation must make an irrevocable election between such benefits.

We believe that a liberalization of the existing section 1661 (b) provision would be warranted. The new GI educational assistance program is intended to assist the veteran in readjusting to civilian life following his period of post-Korean service. The fact that he may have had previous training at Government expense under a different program may minimize, and in many cases might obviate, the need for further rehabilitation assistance; but, if the veteran finds that he does need additional education, such as a master's degree to successfully enter into a teaching profession, we do not believe that it should be denied him.

Section 2 of the bill would amend the war orphans' educational assistance program (ch. 35 of title 38, U.S.C.) to extend the educational assistance provided therein to widows of veterans who die of service-connected causes and to wives of veterans permanently and totally disabled due to service-connected causes. The educational assistance allowance would be the same rates as those payable to eligible sons and daughters now pursuing a program of education under that chapter (\$130, \$95, or \$60 a month for full-time, three-quarter-time, or half-time school attendance, respectively). The benefits granted

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under this section would be subject to an 8-year time limitation and would not be available to a remarried widow.

We believe that this proposal is sound. Upon the deaths of their husbands, widows of veterans who die of service-connected disabilities generally look for financial support from Veterans' Administration benefits and perhaps from social security. While these payments may meet their subsistence needs, we do not believe that they should induce widows to lead withdrawn or sheltered lives. It is preferable and necessary to encourage widows to return to the "mainstream," both economically and socially. This goal could be furthered through additional training and education.

Additional training would make it possible for widows to supplement their income, thereby enabling them to achieve a comfortable standard of living. The national economy would benefit from such training because the costs of training would eventually be returned as additional income tax revenues. In addition, the Nation would gain needed skills for its manpower resources.

The wives of totally disabled veterans have a somewhat different, but perhaps equally serious, problem. It is seldom possible to rehabilitate the totally disabled veteran economically. Therefore, a program of educational assistance for his wife, such as proposed by this section, provides an equitable alternative. It would enable her to supplement the income of the family and provide a standard of living more nearly comparable to that which the veteran could have been expected to provide for his

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family if he had not been totally incapacitated by his military service. Further, the inclusion of the wives of veterans who have a total disability, permanent in nature, is a logical extension of the provision of the educational benefits to widows and has a precedent in the extension of this benefit to the children of these disabled veterans by Public Law 88-361.

For the reasons expressed in the preceding paragraphs, the U. S. Veterans' Advisory Commission in their recommendations Nos. 30 and 31 urged the provision of educational assistance for both of these groups. We believe their conclusion in this respect was sound.

This section of the bill is similar to S. 2985, 90th Congress, on which you also requested a report, in that the latter bill would grant educational assistance to widows of World War II, Korean conflict, or Vietnam era veterans who died while on active duty or from a service-connected disability incurred during such a period of service. The benefits extended by S. 2985, however, would be limited to a maximum of 36 months, they would be subject to an 8-year limitation, and they would not be granted to a widow eligible on the basis of her own service.

That bill proposes to grant benefits through the amendment of chapter 34 of title 38, United States Code. We believe, as we have pointed out above, that the aims to be accomplished are more nearly akin to the program of providing educational assistance under chapter 35 and we are of the opinion that amendment of that segment of the law would be more appropriate.

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Our comments on section 2 of H.R. 16025 are equally applicable to the provisions of S. 2985, but, for the foregoing reasons, we would favor the enactment of section 2 of the House bill.

Section 3 would provide that any veteran who is pursuing a program of education exclusively by correspondence shall be charged 1 month of eligibility entitlement for each \$130 which is paid as an educational assistance allowance. This is patterned on current provisions of Public Law 89-358, as amended by Public Law 90-77, applicable to flight training. Under existing law (38 U.S.C. 1682(c) (2)), an eligible veteran pursuing a program of education exclusively by correspondence has his entitlement charged on the basis of one-fourth of the elapsed time in following such program of education. The educational assistance allowance is computed on the basis of the established charge by the institution for the course. Thus, the charge against the veteran's entitlement is geared solely to the speed by which he completes a course rather than the expense of the course or the number of lessons in the course.

We have encountered instances of wide disparity in the value of schooling received and the charges against entitlement. For example, there are two veterans who were charged $1\frac{3}{4}$ months entitlement, yet one course cost only \$7.17 while the other required an expenditure of \$885. Other examples include a charge of $3\frac{1}{2}$ months entitlement for a course costing \$33.92 and a charge of 1 month's entitlement for a course costing \$452. We have received a report of one course costing \$1,700 which was

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completed in 4 months for a charge against entitlement of only 1 month.

It would be more equitable between veterans enrolled in the same correspondence training for their entitlement to be charged on the same uniform basis. Therefore, we favor the modification contained in section 3.

Under present law (38 U.S.C. 1774), the Administrator of Veterans' Affairs is authorized to pay State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies in rendering necessary services for evaluating and supervising educational institutions offering courses of education to veterans and other eligible persons. However, in addition to the necessary expenses of salary and travel incurred by employees of State approving agencies, there are the expenses of rental, repair, maintenance, utility, and insurance for agency facilities, as well as postage, office equipment and supplies, educational supplies, freight and delivery services, and miscellaneous operating costs.

It would be appropriate for the Federal Government to assume its fair share of the administrative expenses that can be reasonably attributed to its functions. Since there is a direct relationship between salary expenses and the volume of work performed, the proposed schedule of allowances for administrative cost which is related to the amount of salary expenses reimbursed by the Veterans' Administration, as set forth in section 4 of the bill, appears reasonable.

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The principal cost of the bill would arise from section 2. The estimated first-year cost would total \$7.5 million and the first 5-year cost would be \$77.7 million. The number of individuals affected and the cost of direct benefits under section 2 for each of the next 5 years would be as follows:

Fiscal year	Direct benefits		Elective counseling		Total
	Cases	Cost	Cases	Cost	
1969	8,100	\$7,400,000	1,215	\$85,050	\$7,485,050
1970	19,300	22,000,000	2,895	208,440	22,208,440
1971	15,400	19,600,000	2,310	170,940	19,770,940
1972	11,300	15,400,000	1,695	128,820	15,528,820
1973	9,100	12,600,000	1,395	106,470	12,706,470
Total		77,000,000		699,720	77,699,720

It is not possible to make a precise estimate of the cost of section 1 of the bill, but it is considered that the first-year cost would be nominal and might accumulate to a total first 5-year cost of approximately \$2 million.

We estimate that the enactment of section 3 of the bill would not result in any additional cost and could possibly result in some savings.

Section 4 would cost an estimated \$140,000 for the first year. Because the amount involved is based upon the salary expense paid by the various States, it is not possible to predict future State action in the area of compensation.

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However, we assume that such salary expenses will remain fairly constant during the next 5 years. If there is any future increase in a State salary expense it would consequently result in an increased cost of this section of the bill.

The estimated cost of the bill, if enacted, for the first year would be \$7.6 million, with a total first 5-year cost of approximately \$80.5 million.

For the foregoing reasons, we strongly support favorable consideration of H.R. 16025 by your committee.

We are advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the presentation of this report to your committee.

Sincerely,

W. J. DRIVER, *Administrator.*

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS AFFAIRS,
Washington, D.C., July 1, 1968.

Hon. LISTER HILL,
*Chairman, Committee on Labor and, Public Welfare,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This will respond to your request for a report from the Veterans' Administration

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on S. 3349, 90th Congress, a bill to amend section 1661(a) of title 38, United States Code, relating to educational assistance.

The purposes of this bill are twofold. Section 1 would grant an eligible veteran entitlement to educational assistance for a period equal to one and a half times the duration of his service on active duty after January 31, 1955 (or the equivalent thereof in part-time educational assistance) and section 2 would modify the classroom hour requirements for farm cooperative training.

The proposal in section 1 to amend section 1661(a) of title 38, United States Code, is patterned after the educational assistance benefits granted to Korean conflict veterans and is identical to the language of S. 9, 90th Congress, as reported to the Senate on May 24, 1967. The text of this provision was added to S. 16, 90th Congress, when the Senate amended the House-passed version of that bill on June 1, 1967. In our report to the Congress on the points in controversy between the House and the Senate versions of S. 16, we stated that it was our view that the month-for-month formula contained in the new GI program would assist the Armed Forces in utilizing the skills and abilities resulting from servicemen extending their active-duty service for an additional year. We pointed out that our experience showed that 83 percent of those applying for benefits had more than 24 months of entitlement and that two-thirds had between 31 and 36 months of entitlement. It was our position at that time that the month-for-month formula, when coupled with the provisions of section 1661(c) extending the period of

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entitlement to the end of a semester or quarter in those instances where the veteran's entitlement ran out during that semester or quarter, provided sufficient entitlement to those serving the longest periods and contributing the most to the national defense and did not warrant a change to the 1½ -to-1 formula. The proposed change was eliminated by the conference committee when it reached its agreement. We find no facts today that would cause any change in our position as set forth above. Accordingly, we cannot recommend favorable consideration of section 1 of S. 3349 by your committee.

It is our estimate that the cost of changing the computation of entitlement for educational assistance from the present month-for-month formula to one and one-half times the veteran's period of active-duty service after January 31, 1955, as proposed in S. 3349, would be \$18 million for the first year and a total of \$216 million for the next 5 fiscal years. A table setting forth the number of individuals who would be affected by section 1 of the bill, as well as a year-by-year breakdown of the cost of direct benefits for the next 5 fiscal years, is enclosed as an attachment to this report.

Regarding section 2 of the bill, the Veterans' Pension and Readjustment Assistance Act of 1967 (Public Law 90-77) authorized farm cooperative training benefits for eligible veterans enrolled in an educational institution for a farm cooperative program consisting of institutional agricultural courses for a minimum of 12 clock-hours per week. Benefits at the rate of \$105 per month for a veteran without dependents, \$125 per month for a veteran

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with one dependent, \$145 per month for a veteran with two dependents, and \$7 per month for each dependent in excess of two, were granted providing the veteran was concurrently engaged in agricultural employment. This program was developed in the conference between the House and Senate in the light of experience under the Korean conflict program and was in lieu of substantial modifications contained in earlier proposals.

The current hourly class requirement of 12 hours weekly is less than half that required for any vocational schooling. It is justified on the basis that the veteran be engaged in essentially full-time related farmwork. We believe the basis for this requirement of 12 clock-hours per week is sound. Our experience has indicated, however, that few individuals are in a position to undertake this training and the number who have enrolled is much smaller than we had anticipated. It appears that while the 12-hour requirement is reasonable, what may not be reasonable is the concept of providing farm training only on a full-time basis.

It may well be that for many qualified farmers the required 12 clock hours per week of institutional agricultural courses, together with their farmwork (and on many occasions, other employment), was more than they could or chose to undertake. Under this full-time program, it is necessary that four or five nights a week be devoted to classroom work since classes cannot be scheduled early. This is due to the evening chores of an active farmer, plus the time required in commuting to class from an outlying district. Spring fieldwork, summer

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cultivating, combining, or other harvesting, creates peak work periods which for some make a schedule of 12 clock-hours per week disruptive, or impossible of consummation.

We believe that an extension of the farm training program to include training on a three-quarter and half-time basis is justified. The modification could be accomplished by an amendment to section 1682 of title 38, United States Code, and we suggest a monthly rate of \$75, \$90, and \$145 for a single veteran, with one dependent, and with two dependents, respectively, for three-quarter time (9 hours of classroom instruction), and \$50, \$60, and \$70 for half-time (6 hours of classroom instruction), with an additional \$5 and \$3 per month, respectively, for each dependent in excess of two.

In order to provide for sufficient flexibility in the farm training program to permit lighter classroom activity during peak work periods such as spring and summer cultivating, combining or harvesting, the suggested modification of the current law would permit prescheduling the required institutional courses to fall within 44 weeks of the year.

We estimate that section 2 of the bill, if enacted, would result in an estimated cost for direct benefits of \$21 million for the first year, and a total first 5-year cost of \$160 million.

If section 2 of the bill is amended as we suggest, the estimated cost of direct benefits for the first year would be \$8 million, and the first 5-year cost would be \$58 million.

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Both of these estimates reflect all the cooperative farm training expected, without deducting the relatively small amount of cost which might be incurred under current provisions for farm training. Moreover, we have assumed that most of the farm trainees would be enrolled at the half-time rate. There is enclosed a table [not included in this publication] setting forth in detail the estimated monthly average number of trainees and cost of this section of the bill, together with our suggested amendment.

To summarize, while we do not recommend favorable consideration of the change to the 200 hours per year (and at least 8 hours each month) as proposed in S. 3349, we do favor a provision permitting three-quarter and half-time farm training and are enclosing substitute language for S. 3349 to effectuate this recommendation.

We are advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the presentation of this report to your committee.

Sincerely,

W. J. DRIVER, *Administrator.*

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS AFFAIRS,
Washington, D.C., July 1, 1968.

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Hon. LISTER HILL,
Chairman, Committee on Labor and, Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your request for report on S. 3350, 90th Congress, a bill to amend section 1677 of title 38, United States Code, relating to flight training.

The purpose of S. 3350 is to permit the payment of an educational assistance allowance for flight training, where such training is generally accepted as ancillary to the pursuit of a vocation or endeavor, other than aviation, under the same prerequisite criteria applicable under current law. It would further authorize the Administrator to make direct loans to veterans to pursue flight training program leading to a private pilot's license which is a prerequisite under current law for entry into commercial pilot training. Such a loan might not exceed \$500 nor bear interest greater than 6 percent.

The first section of the bill would extend advanced flight training assistance to eligible veterans who, although not interested in pursuing a career in commercial aviation as such, find that their ability to pilot an aircraft would expand their opportunities in earning a livelihood. For example, it could well permit a physician to bring his lifesaving skills to otherwise remote and inaccessible sections of the Nation. Less dramatically it could enable a salesman to see a greater number of prospective purchasers more often and yet devote more time to home and family.

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The proposed extension of the flight training program is so closely related to the veteran's basic vocational objective that we believe it to be within the spirit of the readjustment concept underlying the program. Consequently, we would have no objection to the favorable consideration of section 1 of S. 3350 by your committee.

Section 2 of the bill would authorize the Administrator to make a loan to a veteran wishing to pursue a course of flight training but who lacks the private pilot's license and is not otherwise entitled to such license, in order that he might obtain the flight training required for a private pilot's license. Such loan would not exceed \$500 and would bear interest not to exceed 6 percent per annum. The amount of the loan would be repayable in equal monthly installments over a period of time not exceeding 3 years commencing upon the failure of the veteran to enter upon a course of flight instruction within 1 year after completing the requirements for or obtaining a private pilot's license. A third of the loan, plus interest, would be canceled for each calendar year of service performed by the veteran in a recognized vocational field in aviation entered upon pursuant to the flight training, received under this provision. The bill does not specify the condition under which the loan would be repaid by veterans who stop short of completion of their training or who do not promptly enter a vocational field in aviation upon completion of training. Presumably, it is intended that the Veterans' Administration would provide for these contingencies under the general authority of the Administrator.

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The requirement of the existing law that an eligible veteran may not receive the benefits of the post-Korean educational assistance program while pursuing flight training unless he has obtained a private pilot's license (or its equivalent) and this instant proposal that the Government lend him an amount up to \$500 to assist him in acquiring the required private pilot's license must be evaluated against a background of congressional consideration of this type of readjustment training.

Under the Servicemen's Readjustment Act of 1944 (the World War II G.I. bill) great latitude was permitted in the pursuit of flight and other types of training. Allegations were made that some aspects of that training were purely avocational and recreational. In order to curb the alleged abuses, Congress, in enacting the Supplemental Independent Offices Appropriation Act, 1949 (Public Law 862, 80th Cong., June 30, 1948) prohibited the use of any part of the appropriation for tuition, fees, charges, or subsistence allowances for any course elected or commenced by a veteran on or subsequent to July 1, 1948, and which was determined by the Administrator to be avocational or recreational in character. However, education and training for the purpose of teaching a veteran to fly or related aviation courses in connection with his present or contemplated business or occupation was exempt from the proviso and held not to be avocational or recreational. The Independent Offices Appropriation Act, 1950 (Public Law 266, 81st Cong., Aug. 24, 1949) contained similar language but modified the exemption to the point where, in the absence of substantial evidence, the veteran could file an affidavit from two disinterested

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persons stating that such training would be useful to him in earning a livelihood. This proviso was incorporated, in more specific language, in the permanent law (pt. VIII, Veterans Regulation No. 1(a), as amended) by Public Law 610, 81st Congress. This amendment listed a number of courses which were presumed to be avocational or recreational in character; among them were "glider courses." It continued the exception for teaching a veteran to fly in connection with his present or contemplated business or occupation and retained the affidavit feature.

Following the start of the Korean conflict, interest developed in extending the benefits of the Servicemen's Readjustment Act of 1944 to the new group of veterans. In order to eliminate the abuses found to exist in that program from any future veterans readjustment program, a select committee of the House of Representatives was established to investigate the program under the World War II GI bill. The education provisions of the Veterans' Readjustment Assistance Act of 1952 (the Korean conflict GI bill) in many ways reflected the concern for actual and potential abuses which had been stated by the select committee. Among other things, more stringent restrictions were placed upon the pursuit of flight training by Korean conflict veterans.

Under the Korean conflict program, a subsistence allowance was payable computed at the rate of 75 percent of the course costs for a flight course, with a veteran's eligibility charged with 1 day for each \$1.25 in allowance paid to the veteran. An eligible veteran could thus exhaust his entire 36 months' entitlement upon the payment of

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\$1,350. The current flight program adopted in conference and enacted as Public Law 90-77 is much more generous than that contained in the Korean GI bill. In exhausting 36 months of entitlement at the rate of 90 percent of the course costs and 1 month for each \$130 paid, an eligible veteran would receive a total of \$4,680.

The requirement that an eligible veteran may not receive the benefit of the GI education program while engaged in flight training unless he has obtained his private pilot's license (or its equivalent) was apparently intended to assure the participation of only those veterans of serious purpose. It has been helpful in attracting those really interested in commercial flying and discouraging those applicants interested only in avocational and recreational flying. Concern over providing avocational and recreational flying under the World War II GI bill resulted in the enactment by the Congress of a much more restricted program under the Korean conflict GI bill.

According to our records approximately 10,000 veterans have already qualified to pursue flight training under the current law which has been in effect a little more than one-half year. This would seem to indicate that there has been no material inability of veterans of serious purpose to pursue a program of flight training because of financial problems.

If hardship in the current flight training program exists, we believe it is to be found in the financial outlay by trainees prior to their reimbursement, which is on a quarterly basis. We are submitting a favorable report to your committee today on S. 3476, 90th Congress, which

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would provide that the allowances for flight training be paid on a monthly basis rather than quarterly.

In view of the foregoing, we recommend favorable consideration of the first section of S. 3350, but we are not able to recommend favorable consideration of section 2 of the bill by your committee.

It is estimated that, if enacted, S. 3350 would result in additional total costs in direct benefits of \$4.5 million in the first fiscal year and a total increased cost of \$32.5 million for the first 5 years. Our estimate of the increase in the number of flight trainees, the increase in the cost of direct benefits, and the number and cost of loans for each of the first 5 years follows:

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Fiscal year	Increase in trainees and cost of direct benefits			Loans		Total increase in cost of direct benefits
	Trainees Monthly Average	Indi-viduals	Cost of Direct Benefits	Number	Amount	
1969	1,500	3,000	\$2,300,000	4,400	\$2,200,000	\$4,500,000
1970	3,000	5,000	4,700,000	4,500	2,300,000	7,000,000
1971	3,000	5,000	4,700,000	4,500	2,300,000	7,000,000
1972	3,000	5,000	4,700,000	4,500	2,300,000	7,000,000
1973	3,000	5,000	4,700,000	4,500	2,300,000	7,000,000
1st 5-year total			21,100,000	22,400	11,400,000	32,500,000

Note: No allowance is made for the recoupment of loans from veterans who fail to qualify for cancellation of the loan. It is assumed at such repayments would be made to

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the Department of the Treasury and, therefore, would not reduce the need to appropriate funds to the Veterans' Administration.

We are advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the presentation of this report to your committee.

Sincerely,

W. J. DRIVER, *Administrator.*

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS AFFAIRS,
Washington, D.C., July 1, 1968.

Hon. LISTER HILL,
*Chairman, Committee on Labor and, Public Welfare,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This will respond to your request for a report from the Veterans' Administration on S. 3476, 90th Congress, a bill to amend section 1677 of title 38, United States Code, in order to require that the educational assistance allowance for flight training be paid on a monthly rather than quarterly basis.

This bill would amend the second sentence of section 1677 (b) of title 38, United States Code, to provide monthly,

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instead of quarterly, payments to each eligible veteran pursuing an approved course consisting exclusively of flight training. The effective date of the act would be the first day of the second calendar month following the month in which the act was enacted.

The educational allowance provided by chapter 34 of title 38, United States Code, is intended to help an eligible veteran meet, in part, the expenses of his subsistence, tuition, fees, supplies, books, equipment, and other educational costs. Payments, except for correspondence courses and flight training, are made monthly. In the case of these two exceptions, payments are related to course costs, rather than class attendance, and are made on a quarterly basis. The assistance for flight training is computed at 90 percent of tuition and fees with a charge against entitlement of 1 month for each \$130 paid.

The recognized high cost of flight training requires the participating veteran to make a substantial outlay of funds during the initial 3-month period and the additional period of time required to process and pay the assistance to which he became entitled. This could constitute a hardship in many cases. In the alternative, the flight school is required, in order to obtain and hold veteran-students, to advance credit until the assistance is paid by the Veterans' Administration to the veteran. This, in turn, could cause a hardship on the schools which have to meet regular expenses.

A study of the legislative history of section 1677(b) fails to disclose any rationale for quarterly payments and,

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aside from administrative expedience, no substantive basis is identifiable.

It is estimated that, if enacted, S. 3476 would result in an additional administrative cost of between \$50,000 and \$60,000 per year.

In view of the foregoing, we would have no objection to the favorable consideration of S. 3476 by your committee.

We are advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the presentation of this report to your committee.

Sincerely,

W. J. DRIVER, *Administrator.*

MILITARY JUSTICE ACT OF 1968

P.L. 90-682, see page 1561

**House Report (Armed Services Committee) No. 1481,
May 27, 1968 [To accompany H.R. 15971]**

**Senate Report (Armed Services Committee) No. 1601,
Oct. 2, 1968 [To accompany H.R. 15971]**

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DATES OF CONSIDERATION AND PASSAGE

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House June 3, Oct. 10, 1968

Senate Oct. 3, 1968

The Senate Report is set out.

SENATE REPORT NO. 1601

THE Committee on Armed Services, to which was referred the bill (H.R. 15971) to increase the participation of law officers and counsel on courts-martial, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

EXPLANATION OF THE AMENDMENTS

Many of the amendments are technical or conforming. Substantive amendments are as follows :

1. The, term “law officer” is changed to “military judge” wherever it appears in the bill and wherever it appears elsewhere in the Federal laws.

2. Subsection 2 of section 1 of the bill as passed by the House, which proposes an amendment to article 16 of the Uniform Code of Military Justice (courts-martial classified) to permit the convening of general and special courts-martial consisting of a law officer alone, is amended (sec. 2(3) of the amended bill) by changing the designation to “military judge” and

* * * *