STATE OF NEW YORK

7388--B

2021-2022 Regular Sessions

IN ASSEMBLY

May 6, 2021

Introduced by M. of A. BARRETT, HUNTER, BURDICK, BUTTENSCHON -- read once and referred to the Committee on Veterans' Affairs -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the real property tax law, the executive law, the education law, the public health law, the civil service law, the public officers law, the public housing law and the social services law, in relation to conforming the definition of a veteran serving in the Vietnam war era to newly enacted federal law (H.R. 7105) for veterans who served in-country in the Republic of Vietnam from between February 28, 1961 and May 7, 1975, to any active duty service in the Republic of Vietnam that occurred between November 1, 1955 and May 7, 1975

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision 1 of section 458-a of the real property tax law, as amended by chapter 179 of the laws of 2006, is amended to read as follows:

(a) "Period of war" means the Spanish-American war; the Mexican border period; World War I; World War II; the hostilities, known as the Korean war, which commenced June twenty-seventh, nineteen hundred fifty and terminated on January thirty-first, nineteen hundred fifty-five; the hostilities, known as the Vietnam war, which commenced [~~February twenty-eighth, nineteen hundred sixty-one~~] *November first, nineteen hundred fifty-five* and terminated on May seventh, nineteen hundred seventy-five; and the hostilities, known as the Persian Gulf conflict, which commenced August second, nineteen hundred ninety.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 2. Clause 7 of subparagraph (v) of paragraph a of subdivision 1 of section 364 of the executive law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

(7) in the Vietnam conflict from the [~~twenty-eighth day of February, nineteen hundred sixty-one~~] **first day of November, nineteen hundred fifty-five** to the seventh day of May, nineteen hundred seventy-five;

§ 3. Paragraph (d) of subdivision 1 of section 668 of the education law, as amended by chapter 261 of the laws of 1995, is amended to read as follows:

(d) [~~December twenty-second, nineteen hundred sixty-one~~] **November first, nineteen hundred fifty-five** to May seventh, nineteen hundred seventy-five.

§ 4. Subdivision 1 of section 668-c of the education law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

1. Eligible students. Awards shall be made to Vietnam veterans' resident children born with Spina Bifida enrolled in approved undergraduate or graduate programs at degree granting institutions. For the purpose of this section, "Vietnam veteran" shall mean a person who served in Indochina at any time from the [~~twenty-second day of December, nineteen hundred sixty-one~~] **first day of November, nineteen hundred fifty-five**, to and including the seventh day of May, nineteen hundred seventy-five and (a) was honorably discharged from the armed forces of the United States, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from the armed forces of the United States, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from the armed forces of the United States; "born with Spina Bifida" shall mean a diagnosis at birth of such disease inclusive of all forms, manifestations, complications and associated medical conditions thereof, but shall not include Spina Bifida Occulta. Such diagnosis shall be in accordance with the provisions of the federal Spina Bifida program and shall be documented by the United States Administration of Veterans' Affairs.

§ 5. Paragraph a of subdivision 1 of section 669-a of the education law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

a. "Vietnam veteran" means (i) a person who is a resident of this state, (ii) who served in the armed forces of the United States in Indochina at any time from the [~~twenty-eighth day of February, nineteen hundred sixty-one~~] **first day of November, nineteen hundred fifty-five**, to and including the seventh day of May, nineteen hundred seventy-five, and (iii) who was either discharged therefrom under honorable conditions, including but not limited to honorable discharge, discharge under honorable conditions, or general discharge, or has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 6. Paragraph (f) of subdivision 1 of section 2632 of the public health law, as amended by chapter 414 of the laws of 2015, is amended to read as follows:

(f) Viet Nam conflict between [~~February twenty-eighth, nineteen hundred sixty-one~~] **November first, nineteen hundred fifty-five** and May seventh, nineteen hundred seventy-five, both inclusive; or

§ 7. Subparagraph 4 of paragraph (c) of subdivision 1 of section 85 of the civil service law, as amended by chapter 179 of the laws of 2006, is amended to read as follows:

(4) Hostilities participated in by the military forces of the United States, from the [~~twenty-eighth day of February, nineteen hundred sixty-one~~] first day of November, nineteen hundred fifty-five to the seventh day of May, nineteen hundred seventy-five.

§ 8. Section 63 of the public officers law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

§ 63. Leave of absence for veterans on Memorial day and Veterans' day. It shall be the duty of the head of every public department and of every court of the state of New York, of every superintendent or foreman on the public works of said state, of the county officers of the several counties of said state, of the town officers of the various towns in this state, of the fire district officers of the various fire districts in this state, and of the head of every department, bureau and office in the government of the various cities and villages in this state, and the officers of any public benefit corporation or any public authority of this state, or of any public benefit corporation or public authority of any county or subdivision of this state, to give leave of absence with pay for twenty-four hours on the day prescribed by law as a public holiday for the observance of Memorial day and on the eleventh day of November, known as Veterans' day, to every person in the service of the state, the county, the town, the fire district, the city or village, the public benefit corporation or public authority of this state, or any public benefit corporation or public authority of any county or subdivision of this state, as the case may be, (i) who served on active duty in the armed forces of the United States during world war I or world war II, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (a) was discharged or released therefrom under honorable conditions, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service or who served as a United States civilian Flight Crew and Aviation Ground Support

Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (d) was discharged or released therefrom under honorable conditions, or (e) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (f) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service or during the period of the Korean conflict at any time between the dates of June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the twenty-eighth day of February, nineteen hundred sixty-one to the seventh day of May, nineteen hundred seventy-five, or (ii) who served on active duty in the armed forces of the United States and who was a recipient of the armed forces expeditionary medal, navy expeditionary medal or marine corps expeditionary medal for participation in operations in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety, or (iii) who served in the armed forces of a foreign country allied with the United States during world war I or world war II, or during the period of the Korean conflict at any time between June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the [~~twenty-eighth day of February, nineteen hundred sixty-one~~] **first day of November, nineteen hundred fifty-five** to the seventh day of May, nineteen hundred seventy-five, or during the period of the Persian Gulf conflict from the second day of August, nineteen hundred ninety to the end of such conflict, or who served on active duty in the army or navy or marine corps or air force or coast guard of the United States, and who (a) was honorably discharged or separated from such service under honorable conditions, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service except where such action would endanger the public safety or the safety or health of persons cared for by the state, in which event such persons shall be entitled to leave of absence with pay on another day in lieu thereof. All such persons who are compensated on a per diem, hourly, semi-monthly or monthly basis, with or without maintenance, shall also be entitled to leave of absence with pay under the provisions of this section and no deduction in vacation allowance or budgetary allowable number of working days shall be made in lieu thereof. A refusal to give such leave of absence to one entitled thereto shall be neglect of duty.

§ 9. Subparagraph 1 of paragraph b of subdivision 1 of section 156 of the public housing law, as amended by chapter 179 of the laws of 2006, is amended to read as follows:

(1) have served in the armed forces of the United States for a period of at least six months (or any shorter period which terminated due to

death or injury incurred in such service), provided some portion of the period of service was between the [~~twenty-eighth day of February, nineteen hundred sixty-one~~] **first of November, nineteen hundred fifty-five** to the seventh day of May, nineteen hundred seventy-five, and

§ 10. Paragraph 7 of subdivision 2 of section 168 of the social services law, as amended by chapter 179 of the laws of 2006, is amended to read as follows:

(7) Viet Nam conflict; from the [~~twenty-eighth day of February, nineteen hundred sixty-one~~] **first of November, nineteen hundred fifty-five** to and including the seventh day of May, nineteen hundred seventy-five.

§ 11. This act shall take effect immediately.