

105TH CONGRESS }
1st Session } HOUSE OF REPRESENTATIVES { REPORT
105-47

TO EXTEND THE AUTHORITY OF THE SECRETARY OF VETERANS AFFAIRS
TO ENTER INTO ENHANCED-USE LEASES FOR DEPARTMENT OF VETER-
ANS AFFAIRS PROPERTY, TO RENAME THE UNITED STATES COURT OF
VETERANS APPEALS AND THE NATIONAL CEMETERY SYSTEM, AND FOR
OTHER PURPOSES

APRIL 9, 1997.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. STUMP, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 1092]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1092) to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to enter into enhanced-use leases for Department of Veterans Affairs property, to rename the United States Court of Veterans Appeals and the National Cemetery System, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

INTRODUCTION

On March 18, 1997, the Honorable Bob Stump, Chairman of the Committee on Veterans' Affairs, was joined by the Honorable Lane Evans, in the introduction of H.R. 1092 to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to enter into enhanced-use leases for Department of Veterans Affairs property, to rename the United States Court of Veterans Appeals and the National Cemetery System, and for other purposes.

The full Committee met on March 20, 1997 and ordered H.R. 1092 reported favorably to the House by unanimous voice vote.

SUMMARY OF THE REPORTED BILL

H.R. 1092 would:

1. Extend expiring VA authority to administer the Enhanced-Use Lease of Real Property Program until December 31, 2002, and repeal the current limitation on the number of enhanced-use leases which VA may enter under such authority.
2. Rename the United States Court of Veterans Appeals as the United States Court of Appeals for Veterans Claims.
3. Redesignate the National Cemetery System as the National Cemetery Administration.
4. Codify the fiscal year 1997 compensation rates which were administratively increased by the Secretary.

BACKGROUND AND DISCUSSION

Section 101. Enhanced-Use Leases of Department of Veterans Affairs Real Property.

The bill would extend and expand VA's authority to enter into so-called "enhanced-use" leases. Specifically, it would amend section 8169 of title 38, United States Code, to extend until December 31, 2002 the Secretary's authority to enter into enhanced-use leases. Additionally, the bill would repeal section 8168 of title 38, United States Code, which limits to ten in any one fiscal year and 20 over the life of the program, the number of enhanced-use leases VA may execute.

Enhanced-use lease authority, established under title IV of Public Law 102-86, was designed to permit the Department of Veterans Affairs to enter into long-term leases with private and other public entities to improve unused or underused VA property in a manner which would, at least in part, contribute to the VA's mission. While VA has long had authority to lease property under section 8122 of title 38, the term of such leases may not exceed three years and the proceeds of such leases are to be deposited into the U.S. Treasury. Pursuant to the provisions of Public Law 102-86, codified in sections 8161 through 8169 of title 38, United States Code, VA may enter into enhanced-use leases for up to 35 years in the case of a lease involving construction of a new building or substantial building rehabilitation and up to 20 years in other cases. Where consideration for an enhanced-use lease is monetary, payments are retained by VA, with 75 percent to be deposited in the Nursing Home Revolving Fund under section 8116 of title 38, United States Code and 25 percent credited to the medical care account for the use of the facility at which the property is located. Consideration may also be in kind.

Enhanced-use leasing has proven an effective public-private partnership in improving underutilized VA property and developing beneficial uses on medical center grounds including child care centers, parking facilities, and VA office space. Several other leasing projects are under development or investigation.

The enhanced-use leasing concept can be a flexible tool to meet important VA goals. At the Indianapolis VA Medical Center (VAMC), hospital bed closures led to a decision to consolidate from two campuses to one and to seek another use for the hospital build-

ing on its Cold Spring Division campus. Under the enhanced-use lease authority, the state of Indiana has agreed to enter into a 35-year lease for approximately 22 acres of the 30-acre plot. The State will use the VA property as a replacement for a State psychiatric hospital adjacent to the VA's other campus. The state will also reimburse VA—in monetary and in-kind payments—the sum of \$15.64 million. Further, the VA will save \$5 million per year in operational costs.

VA's goal of developing a regional office on the grounds of its Houston Medical Center to provide improved service was also realized through enhanced-use leasing. Under this authority, VA leased 20 acres of unused land for 35 years to a local developer who constructed a 140,000 square foot VA regional office (VARO) which opened in 1995, and developed a retail center on the remaining acreage. In accordance with the agreement, the VA has purchased the VARO for \$11.5 million, a 33 percent savings over original cost estimates. The collocation of the VARO and the VAMC has greatly enhanced the VA's ability to provide convenient customer service to the veterans it serves.

Through these examples and others, it is clear to the Committee that the Department should continue and expand these efforts. To that end, this bill would extend this program and also lift restrictions on the number of enhanced-use leases VA may execute. Current law limits the VA to 20 such leases. The Committee envisions that as leasing agreements now under development are executed, the VA may soon be in the precarious position of denying worthy lease opportunities solely due to the 20-lease limit. Because of the program's success in developing private-public partnerships, limitations on the number of such leases is no longer warranted.

Section 201. Renaming of the Court of Veterans Appeals.

The bill would amend section 7251 of title 38, United States Code, to rename the United States Court of Veterans Appeals ("the Court") as the United States Court of Appeals for Veterans Claims. According to Chief Judge Frank Q. Nebeker, many veterans and attorneys believe that the Court is an administrative tribunal of the Department of Veterans Affairs rather than an independent judicial entity. Moreover, the Court's common acronym "CVA" is not readily distinguishable from "BVA", an acronym for the Board of Veterans Appeals, which is an administrative tribunal of the Department, or "DVA", which is a common acronym for the Department of Veterans Affairs. Adoption of the name "United States Court of Appeals for Veterans Claims" would also be consistent with recent name changes in other courts established by Congress under Article I of the United States Constitution. In 1994, the United States Court of Military Appeals was renamed the United States Court of Appeals for the Armed Forces. In 1992, the United States Court of Claims was renamed the United States Court of Federal Claims.

Section 202. Redesignation of National Cemetery System.

The bill would amend section 301 of title 38, United States Code, to redesignate the National Cemetery System (NCS) as the National Cemetery Administration. The bill would elevate NCS to the

same organizational status within VA as the Veterans Health Administration and the Veterans Benefits Administration. NCS is the only one of the three major VA components responsible for delivering benefits that is designated as a “System” rather than an “Administration”. According to VA Secretary Jesse Brown, the redesignation as an “Administration” would more accurately recognize NCS’ status as a benefit-delivery administration.

The bill would also amend section 307 of title 38, United States Code, to redesignate the Director of the National Cemetery System as the Assistant Secretary for Memorial Affairs. According to Secretary Brown, the redesignation would assure that the position receives the status commensurate with its responsibilities. The redesignation would not affect the duties and responsibilities of the position, and therefore, it would not affect the salary level of the position.

Sections 301–305. Codification of fiscal year 1997 compensation rate increases.

The bill would amend several sections of title 38, United States Code, to codify the fiscal year 1997 compensation rates which the Secretary administratively increased pursuant to Public Law 104–263.

SECTION-BY-SECTION ANALYSIS

Section 101(a) would amend section 8169 of title 38, United States Code, to extend until December 31, 2002, the Secretary’s authority to enter into enhanced-use leases.

Section 101(b) would repeal section 8168 of title 38, United States Code, to eliminate the limitation on the number of enhanced-use leases which the Secretary may enter under this program.

Section 201(a) would amend section 7251 of title 38, United States Code, to redesignate the United States Court of Veterans Appeals as the United States Court of Appeals for Veterans Claims.

Section 201(b) would amend sections 5904, 7101(b), 7242(a), 7253, 7254, 7255, 7256, 7261, 7262, 7263, 7264, 7266(a)(1), 7267(a), 7268(a), 7269, 7281(a), 7282(a), 7283, 7284, 7285(a), 7286, 7291, 7292, 7296, 7297, and 7298 of title 38, United States Code, to make conforming amendments.

Section 201(c) would amend section 8440d of title 5, section 2112 of title 28, section 906 of title 44, United States Code, and section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.), to make conforming amendments.

Section 202(a) would amend section 301(c)(4) of title 38, United States Code, to redesignate the National Cemetery System (NCS) as the National Cemetery Administration. This section would also amend section 307 of title 38, United States Code, to redesignate the Director of the National Cemetery System as the Assistant Secretary for Memorial Affairs.

Section 202(b) would amend sections 307, 308, 2306(d), 2400, 2402, 2403(c), 2405(c), and 2408(c)(1) of title 38, United States Code, and section 5315 of title 5, United States Code, to make conforming amendments.

Section 202(c) would deem any reference in a record of the United States to the National Cemetery System to be a reference to the National Cemetery Administration, and any reference to the Director of the National Cemetery System to be a reference to the Assistant Secretary for Memorial Affairs.

Section 202(b) would authorize the President alone to make the initial appointment to the position of Assistant Secretary for Memorial Affairs if such individual is serving as Director of the National Cemetery System on the day before enactment of this Act.

Section 301 would amend section 1114 of title 38, United States Code, to codify an administrative increase in the fiscal year 1997 disability compensation rates.

Section 302 would amend section 1115 of title 38, United States Code, to codify an administrative increase in the fiscal year 1997 dependents' compensation rates.

Section 303 would amend section 1162 of title 38, United States Code, to codify an administrative increase in the fiscal year 1997 clothing allowance for certain disabled veterans.

Section 304 would amend section 1311 of title 38, United States Code, to codify an administrative increase in the fiscal year 1997 Dependency and Indemnity Compensation rates for surviving spouses.

Section 305 would amend section 1313 of title 38, United States Code, to codify an administrative increase in the fiscal year 1997 Dependency and Indemnity Compensation rates for children.

OVERSIGHT FINDINGS

No oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 25, 1997.

Hon. BOB STUMP,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the cost estimate for H.R. 1092, a bill to extend the authority of the Secretary of Veterans Affairs to enter into enhanced-use leases for Department of Veterans Affairs property, to rename the United States Court of Veterans Appeals and the National Cemetery System, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mary Helen Petrus, who can be reached at 226-2840.

Sincerely,

JUNE E. O'NEILL,
Director.

Attachment

H.R. 1092—A bill to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to enter into enhanced-use leases for Department of Veterans Affairs property, to rename the United States Court of Veterans Appeals and the National Cemetery System, and for other purposes.

As ordered reported by the House Committee on Veterans' Affairs on March 20, 1997

CBO estimates that this bill would have no significant effect on the federal budget. The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. H.R. 1092 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act of 1995 (UMRA). But CBO estimates that the mandate's costs would not exceed the threshold in that act (\$50 million in 1996, adjusted annually for inflation). The bill would impose no new private-sector mandates as defined in UMRA.

Title I of H.R. 1092 would allow the Department of Veterans Affairs (VA), through December 31, 2002, to enter into a limited number of enhanced-use leases. Under enhanced-use lease authority, VA leases portions of its real property in return for cash or in-kind services. Cash receipts would be spent for nursing home and medical care expenses. CBO estimates that these provisions would have no net budgetary effect because the additional income to the government and the spending of that income would offset each other.

Neither Title II nor Title III would result in significant costs. Provisions in Title II would rename the U.S. Court of Veterans Appeals and the National Cemetery System. Title III would add the cost-of-living-allowance (COLA) that took effect on December 1, 1996, to rates of disability compensation for veterans and survivors currently stated in law.

H.R. 1092 contains an intergovernmental mandate as defined in UMRA. The bill would extend and expand a currently existing mandate that preempts state and local governments from imposing taxes, fees, and permit requirements on VA properties that are leased to private concerns. To the extent that these private concerns would otherwise build facilities on nongovernmental property, and thus pay the appropriate taxes and fees, the loss of revenue to state and local governments would be considered a mandate cost. However, based on information provided to CBO by the Department of Veterans Affairs, and because most of these projects are small, we believe that the mandate threshold established in UMRA (\$50 million in 1996, adjusted annually for inflation) would not be exceeded. The bill would not have any other effects on the budgets of state and local governments.

The CBO staff contacts for this estimate are Mary Helen Petrus (226-2840) for federal costs, and Marc Nicole (225-3220) for state and local impacts. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

The enactment of the reported bill would have no inflationary impact.

APPLICABILITY TO LEGISLATIVE BRANCH

The reported bill would not be applicable to the legislative branch under the Congressional Accountability Act, Public Law 104-1, because it would apply only to certain programs and facilities of the Department of Veterans Affairs and the United States Court of Veterans Appeals.

STATEMENT OF FEDERAL MANDATES

The reported bill would not establish a federal mandate under the Unfunded Mandates Reform Act, Public Law 104-4.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the U.S. Constitution, the reported bill would be authorized by Congress' power "[T]o provide for the common Defence and general Welfare of the United States."

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, existing law in which no change is proposed is shown in *roman*):

TITLE 38, UNITED STATES CODE

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PART I—GENERAL PROVISIONS

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Chap.		Sec.
1. General		101
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PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

71. Board of Veterans' Appeals	7101
72. United States Court of Veterans Appeals	7251
72. <i>United States Court of Appeals for Veterans Claims</i>	7251

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PART I—GENERAL PROVISIONS

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CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

Sec. _____
301. Department. _____
* * * * *

【307. Director of the National Cemetery System.】
 307. *Assistant Secretary for Memorial Affairs.*

* * * * *

§ 301. Department

(a) * * *

* * * * *

(c) The Department is composed of the following:

(1) * * *

* * * * *

(4) The 【National Cemetery System】 *National Cemetery Administration.*

* * * * *

【§ 307. Director of the National Cemetery System】

§ 307. *Assistant Secretary for Memorial Affairs*

There is in the Department 【a Director of the National Cemetery System】 *an Assistant Secretary for Memorial Affairs*, who is appointed by the President, by and with the advice and consent of the Senate. 【The Director is the head of the National Cemetery System】 *The Assistant Secretary is the head of the National Cemetery Administration* as established in section 2400 if this title and shall perform such functions as may be assigned by the Secretary.

§ 308. Assistant Secretaries; Deputy Assistant Secretaries

(a) There shall be in the Department not more than six Assistant Secretaries, *in addition to the Assistant Secretary for Memorial Affairs*. Each Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Secretary shall assign to the Assistant Secretaries *other than the Assistant Secretary for Memorial Affairs* responsibility for the administration of such functions and duties as the Secretary considers appropriate, including the following functions:

(1) * * *

* * * * *

(c) Whenever the President nominates an individual for appointment as an Assistant Secretary *pursuant to subsection (b)*, the President shall include in the communication to the Senate of the nomination a statement of the particular functions of the Department specified in subsection (b), and any other functions of the Department, the individual will exercise upon taking office.

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PART II—GENERAL BENEFITS

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CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

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SUBCHAPTER I—GENERAL

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§ 1114. Rates of wartime disability compensation

For the purposes of section 1110 of this title—

(a) if and while the disability is rated 10 percent the monthly compensation shall be ~~【\$87】~~ \$94;

(b) if and while the disability is rated 20 percent the monthly compensation shall be ~~【\$166】~~ \$179;

(c) if and while the disability is rated 30 percent the monthly compensation shall be ~~【\$253】~~ \$274;

(d) if and while the disability is rated 40 percent the monthly compensation shall be ~~【\$361】~~ \$391;

(e) if and while the disability is rated 50 percent the monthly compensation shall be ~~【\$515】~~ \$558;

(f) if and while the disability is rated 60 percent the monthly compensation shall be ~~【\$648】~~ \$703;

(g) if and while the disability is rated 70 percent the monthly compensation shall be ~~【\$819】~~ \$887;

(h) if and while the disability is rated 80 percent the monthly compensation shall be ~~【\$948】~~ \$1,028;

(i) if and while the disability is rated 90 percent the monthly compensation shall be ~~【\$1,067】~~ \$1,157;

(j) if and while the disability is rated as total the monthly compensation shall be ~~【\$1,774】~~ \$1,924;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefore shall be ~~【\$70】~~ \$74 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed ~~【\$2,207】~~ \$2,393 per month and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by ~~【\$70】~~ \$74 per month for each such loss or loss of use, but in no event to exceed ~~【\$3,093】~~ \$3,356 per month;

(l) veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be ~~【\$2,207】~~ \$2,393;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing

natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be ~~[\$2,432]~~ \$2,639;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be ~~[\$2,768]~~ \$3,003;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service-connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be ~~[\$3,093]~~ \$3,356;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Secretary may allow the next higher rate or an intermediate rate, but in no event in excess of ~~[\$3,093]~~ \$3,356. In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service-connected) rated at no less than 30 percent disabling, the Secretary shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear or service-connected anatomical loss or loss of use of one hand or one foot, the Secretary shall allow the next intermediate rate, but in no event in excess of ~~[\$3,093]~~ \$3,356. In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling, the Secretary shall allow the next intermediate rate, but in no event in excess of ~~[\$3,093]~~ \$3,356. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Secretary shall allow the next higher rate or inter-

mediate rate, but in no event in excess of ~~[\$3,093]~~ \$3,356. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned.

(r) Subject to section 5503(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of ~~[DBU\$1,441]~~; or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of ~~[\$1,978]~~ \$2,145, in lieu of the allowance authorized in clause (1) of this subsection if the Secretary finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Department or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician. For the purposes of section 1134 of this title, such allowance shall be considered as additional compensation payable for disability.

(s) If the veteran has a service-connected disability rate as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 percent or more, or, (2) by reason of such veteran's service-connected disability or disabilities is permanently housebound, then the monthly compensation shall be ~~[\$1,985]~~ \$2,154. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

§ 1115. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 1114 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child, ~~[\$105]~~ \$112;

(B) has a spouse and one or more children, ~~[\$178]~~ \$191 plus ~~[\$55]~~ \$59 for each child in excess of one;

(C) has no spouse but one or more children, ~~[\$72]~~ \$77 plus ~~[\$55]~~ \$59 for each child in excess of one;

(D) has a parent dependent upon such veteran for support, then, in addition to the above amounts, ~~[\$84]~~ \$91 for each parent so dependent;

(E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be ~~[\$195]~~ \$211 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(F) notwithstanding the other provisions of this paragraph, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be ~~[\$164]~~ \$177 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

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SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

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§ 1162. Clothing allowance

The Secretary under regulations which the Secretary shall prescribe, shall pay a clothing allowance of ~~[\$478]~~ \$518 per year to each veteran who—

(1) * * *

* * * * *

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE—CONNECTED DEATHS

* * * * *

SUBCHAPTER I—GENERAL

* * * * *

§ 1311. Dependency and indemnity compensation to a surviving spouse

(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of ~~[\$769]~~ \$833.

(2) The rate under paragraph (1) shall be increased by ~~[\$169]~~ \$182 in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally dis-

abling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran's disability for purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be in the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):

Pay grade	Monthly rate	Pay grade	Monthly rate
E-7	\$794	O-3	\$897
E-8	838	O-4	948
E-9	¹ 875	O-5	1,044
W-1	812	O-6	1,177
W-2	844	O-7	1,271
W-3	869	O-8	1,392
W-4	920	O-9	1,492
O-1	812	O-10	² 1,636
O-2	838		

¹If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$943.

²If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,753.]

Pay grade	Monthly rate
E-7	\$861
E-8	909
E-9	¹ 949
W-1	880
W-2	915
W-3	943
W-4	997
O-1	880
O-2	909
O-3	972
O-4	1,028
O-5	1,132
O-6	1,276
O-7	1,378
O-8	1,510
O-9	1,618
O-10	² 1,774

¹If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,023.

²If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,902.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall

be increased by ~~【\$100 for each such child during fiscal year 1993, \$150 for each such child during fiscal year 1994, and \$200 for each such child thereafter】~~ *\$211 for each such child.*

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by ~~【\$195】~~ *\$211* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by ~~【\$95】~~ *\$102* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purpose of this subsection, the requirement of “permanently housebound” will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse’s home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse’s lifetime.

* * * * *

§ 1313. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

- (1) one child, ~~【\$327】~~ *\$354*;
- (2) two children, ~~【\$471】~~ *\$510*;
- (3) three children, ~~【\$610】~~ *\$662*; and
- (4) more than three children, ~~【\$610】~~ *\$662*, plus ~~【\$120】~~ *\$130* for each child in excess of three.

* * * * *

§ 1314. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by ~~【\$195】~~ *\$211*.

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person’s deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of ~~【\$327】~~ *\$354*.

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person’s deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course

of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of ~~[\$166]~~ \$179.

* * * * *

CHAPTER 23—BURIAL BENEFITS

* * * * *

§ 2306. Headstones, markers, and burial receptacles

(a) * * *

* * * * *

(d)(1) The Secretary of Veterans Affairs shall provide an outer burial receptacle for each new grave in an open cemetery ~~within the National Cemetery System~~ *under the control of the National Cemetery Administration*; in which remains are interred in a casket. The Secretary of the Army may provide an outer burial receptacle for such a grave in the Arlington National Cemetery.

(2) The use of outer burial receptacles in a cemetery ~~within the National Cemetery System~~ *under the control of the National Cemetery Administration* or in the Arlington National Cemetery shall be in accordance with regulations or procedures approved by the Secretary of Veterans Affairs or Secretary of the Army, respectively.

* * * * *

CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

Sec.

[2400. Establishment of National Cemetery System; composition of such system; appointment of director.]

2400. *Establishment of National Cemetery Administration; composition of Administration.*

* * * * *

[§ 2400. Establishment of National Cemetery System; composition of such system; appointment of director]

§ 2400. *Establishment of National Cemetery Administration; composition of Administration*

(a) There shall be within the Department a ~~[National Cemetery System]~~ *National Cemetery Administration* responsible for the interment of deceased servicemembers and veterans. ~~[Such system shall be headed by the Director of the National Cemetery System]~~ *The National Cemetery Administration shall be headed by the Assistant Secretary for Memorial Affairs*, who shall perform such functions as may be assigned by the Secretary.

(b) The ~~[National Cemetery System]~~ *national cemeteries and other facilities under the control of the National Cemetery Administration* shall consist of—

(1) * * *

* * * * *

§ 2402. Persons eligible for interment in national cemeteries

Under such regulations as the Secretary may prescribe and subject to the provisions of section 6105 of this title, the remains of the following persons may be buried in any open national cemetery **【in the National Cemetery System】** *under the control of the National Cemetery Administration*:

(1) * * *

* * * * *

§ 2403. Memorial areas

(a) * * *

* * * * *

(c) All national and other veterans' cemeteries **【in the National Cemetery System created by this chapter】** *under the control of the National Cemetery Administration* shall be considered national shrines as a tribute to our gallant dead and, notwithstanding the provisions of any other law, the Secretary is hereby authorized to permit appropriate officials to fly the flag of the United States of America at such cemeteries twenty-four hours each day.

* * * * *

§ 2405. Disposition of inactive cemeteries

(a) * * *

* * * * *

(c) If a cemetery not **【within the National Cemetery System】** *under the control of the National Cemetery Administration* has been or is to be discontinued, the Secretary may provide for the removal of remains from that cemetery to any cemetery **【within such System】** *under the control of such Administration*. The Secretary may also provide for the removal of the remains of any veteran from a place of temporary interment, or from an abandoned grave or cemetery, to a national cemetery.

* * * * *

§ 2408. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

(a) * * *

* * * * *

(c)(1) In addition to the conditions specified in subsection (b) of this section, any grant to a State under this section to assist such State in establishing a veterans' cemetery shall be made on the condition that such cemetery shall conform to such standards and guidelines relating to site selection, planning, and construction as the Secretary may by regulation prescribe. In prescribing regulations for the purposes of the preceding sentence, the Secretary shall take into account the standards and guidelines for site selection, planning, and construction that are applicable to cemeteries **【in the National Cemetery System】** *under the control of the Na-*

tional Cemetery Administration, including those provided in subsections (b), (c) and (d) of section 2404 of this title.

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 59—AGENTS AND ATTORNEYS

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§ 5904. Recognition of agents and attorneys generally

(a) * * *

* * * * *

(c)(1) * * *

(2) A person who, acting as agent or attorney in a case referred to in paragraph (1) of the subsection, represents a person before the Department or the Board of Veterans' Appeals after the Board first makes a final decision in the case shall file a copy of any fee agreement between them with the Board at such time as may be specified by the Board. The Board, upon its own motion or the request of either party, may review such a fee agreement and may order a reduction in the fee called for in the agreement if the Board finds that the fee is excessive or unreasonable. A finding or order of the Board under the preceding sentence may be reviewed by the United States **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* under section 7263(d) is this title.

* * * * *

(d)(1) * * *

* * * * *

(3) To the extent that past-due benefits are awarded in any proceeding before the Secretary, the Board of Veterans' Appeals, or the United States **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims*, the Secretary may direct that payment of any attorneys' fee under a fee arrangement described in paragraph (1) of this subsection be made out of such past-due benefits. In no event may the Secretary withhold for the purpose of such payment any portion of benefits payable for a period after the date of the final decision of the Secretary, the Board of Veterans' Appeals, or **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* making (or ordering the making of) the award.

* * * * *

PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

Chap.	Sec.
71. Board of Veterans' Appeals	7101
【72. United States Court of Veterans Appeals	7251】

72.	<i>United States Court of Appeals for Veterans Claims</i>	7251
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* * * * *

CHAPTER 71—BOARD OF VETERANS' APPEALS

* * * * *

§ 7101. Composition of Board of Veterans' Appeals

(a) * * *

(b)(1) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Chairman shall be subject to the same ethical and legal limitations and restrictions concerning involvement in political activities as apply to judges of the United States [Court of Veterans Appeal] *Court of Appeals for Veterans Claims*.

* * * * *

CHAPTER 72—UNITED STATES COURT OF VETERANS APPEALS

* * * * *

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

7281. Employees.

* * * * *

[7286. Judicial Conference of the Court of Veterans Appeals.]

7286. *Judicial Conference of the Court of Appeals for Veterans Claims.*

SUBCHAPTER IV—DECISIONS AND REVIEW

[7291. Date when United States Court of Veterans Appeals decision becomes final.]

7291. *Date when United States Court of Appeals for Veterans Claims decision becomes final.*

* * * * *

[7298. Court of Veterans Appeals Retirement Fund.]

7298. *Court of Appeals for Veterans Claims Retirement Fund.*

* * * * *

SUBCHAPTER I—ORGANIZATION AND JURISDICTION

§ 7251. Status

There is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the [United States Court of Veterans Appeals] *United States Court of Appeals for Veterans Claims*.

§ 7252. Jurisdiction; finality of decisions

(a) The [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. The Secretary may not seek review of any such decision. The Court shall have power to affirm, modify, or reverse a decision of the Board or to remand the matter, as appropriate.

* * * * *

§ 7253. Composition

(a) The **【Court of Veterans Appeal】** *Court of Appeals for Veterans Claims* shall be composed of a chief judge and at least two and not more than six associate judges.

* * * * *

(c) The term of office of the judges of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* shall be 15 years.

* * * * *

§ 7254. Organization

(a) The **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* shall have a seal which shall be judicially noticed.

* * * * *

§ 7255. Offices

The principal office of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* shall be in the District of Columbia, but the Court may sit at any place within the United States.

§ 7256. Times and places of sessions

The times and places of sessions of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* shall be prescribed by the chief judge.

SUBCHAPTER II—PROCEDURE**§ 7261. Scope of review**

(a) In any action brought under this chapter, the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims*, to the extent necessary to its decision and when presented, shall—

(1) * * *

* * * * *

§ 7262. Fee for filing appeals

(a) The **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* may impose a fee of not more than \$50 for the filing of any appeal with the Court. The Court shall establish procedures under which such a fee may be waived in the case of an appeal filed by or on behalf of a person who demonstrates that the requirement that such fee be paid will impose a hardship on that person. A decision as to such a waiver is final and may not be reviewed in any other court.

* * * * *

§ 7263. Representation of parties; fee agreements

(a) The Secretary shall be represented before the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* by the General Counsel of the Department.

* * * * *

§ 7264. Rules of practice and procedure

(a) The proceedings of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* shall be conducted in accordance with such rules of practice and procedure as the Court prescribes.

* * * * *

§ 7266. Notice of appeal

(a)(1) In order to obtain review by the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.

* * * * *

§ 7267. Decisions

(a) A decision upon a proceeding before the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court.

* * * * *

§ 7268. Availability of proceedings

(a) Except as provided in subsection (b) of this section, all decisions of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* and all briefs, motions, documents, and exhibits received by the Court (including a transcript of the stenographic report of the hearings) shall be public records open to the inspection of the public.

* * * * *

§ 7269. Publication of decisions

(a) The [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* shall provide for the publication of decisions of the Court in such form and manner as may be best adapted for public information and use. The Court may make such exceptions, or may authorize the chief judge to make such exceptions, to the requirement for publication in the preceding sentence as may be appropriate.

* * * * *

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 7281. Employees

(a) The [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* may appoint a clerk without regard to the provisions of title 5 governing appointments in the competitive service. The clerk shall serve at the pleasure of the Court.

* * * * *

§ 7282. Budget and expenditures

(a) The budget of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* as submitted by the Court for inclusion in the budget of the President for any fiscal year shall be included in that budget without review within the executive branch.

* * * * *

§ 7283. Disposition of fees

Except for amounts received pursuant to section 7285 of this title, all fees received by the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* shall be covered into the Treasury as miscellaneous receipts.

§ 7284. Fee for a transcript of record

The **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* may fix a fee, not in excess of the fee authorized by law to be charged and collected therefore by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record of any proceeding before the Court, or for copying any record, entry, or other paper and the comparison and certification thereof.

§ 7285. Practice fee

(a) The **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed \$30 per year.

* * * * *

【§ 7286. Judicial Conference of the Court of Veterans Appeals】

§ 7286. Judicial Conference of the Court of Appeals for Veterans Claims

The Chief Judge of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* may summon the judges of the Court to an annual judicial conference, at a time and place that the Chief Judge designates, for the purpose of considering the business of the Court and recommending means of improving the administration of justice within the Court's jurisdiction. The Court shall provide by its rules for representation and active participation at such conference by persons admitted to practice before the Court and by other persons active in the legal profession.

SUBCHAPTER IV—DECISIONS AND REVIEW

[§ 7291. Date when United States Court of Veterans Appeals decision becomes final]**§ 7291. Date when United States Court of Appeals for Veterans Claims decision becomes final**

(a) A decision of the United States [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* shall become final upon the expiration of the time allowed for filing, under section 7292 of this title, a notice of appeal from such decision, if no such notice is duly filed within such time. If such a notice is filed within such time, such a decision shall become final—

(1) upon the expiration of the time allowed for filing a petition for certiorari with the Supreme Court of the United States, if the decision of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;

(2) upon the denial of a petition for certiorari, if the decision of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or

(3) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* be affirmed or the appeal dismissed.

(b)(1) If the Supreme Court directs that the decision of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* be modified or reversed, the decision of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Secretary or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* shall become final when so corrected.

(2) If the decision of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(B) the petition for certiorari has been denied, or

(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court, then the decision of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final upon the expiration of 30 days from the time such decision of the [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* was rendered, unless within such 30 days either the Secretary or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which

event the decision of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* shall become final when so corrected.

(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* for a rehearing, and if—

(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(2) the petition for certiorari has been denied, or

(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court, then the decision of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* rendered upon such rehearing shall become final in the same manner as though no prior decision of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* had been rendered.

* * * * *

§ 7292. Review by United States Court of Appeals for the Federal Circuit

(a) After a decision of the United States **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of any statute or regulation (other than a refusal to review the schedule of ratings for disabilities adopted under section 1155 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal with the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* within the time and in the manner prescribed for appeals to United States courts of appeals for United States district courts.

(b)(1) When a judge or panel of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims*, in making an order not otherwise appealable under this section, determines that a controlling question of law is involved with respect to which there is in fact a disagreement between the appellant and the Secretary with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims*. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims*, unless a stay is ordered by a judge of the Court of Veterans Appeals or by the Court of Appeals for the Federal Circuit.

(2) For purposes of subsections (d) and (e) of this section, an order described in this paragraph shall be treated as a decision of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims*.

(d)(1) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* that the Court of Appeals for the Federal Circuit finds to be—

(A) * * *

* * * * *

(e)(1) Upon such review, the Court of Appeals for the Federal Circuit shall have power to affirm or, if the decision of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* is not in accordance with law, to modify or reverse the decision of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* or to remand the matter, as appropriate.

(2) Rules for review of decisions of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* shall be those prescribed by the Supreme Court under section 2072 of title 28.

* * * * *

SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

§ 7296. Retirement of judges

(a) For purposes of this section:

(1) The term “Court” means the United States **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims*.

* * * * *

(i)(1) Beginning with the next pay period after the Director of the Office of Personnel Management receives a notice under subsection (d) of this section that a judge has elected to receive retired pay under this section, the Director shall deduct and withhold 1 percent of the salary of such judge. Amounts shall be so deducted and withheld in a manner determined by the Director. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* Judges Retirement Fund. Deductions under this subsection from the salary of a judge shall terminate upon the retirement of the judge or upon the completion of 15 years of service for which either deductions under this subsection or a deposit under subsection (j) of this section has been made, whichever occurs first.

* * * * *

(k) The amounts deducted and withheld under subsection (i) of this section, and the amounts deposited under subsection (j) of this section, shall be deposited in the **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims* Retirement Fund for credit

to individual accounts in the name of each judge from who such amounts are received.

§ 7297. Survivor annuities

(a) For purposes of this section:

(a) The term “Court” means the United States **[Court of Veterans Appeals]** *Court of Appeals for Veterans Claims*.

* * * * *

[§ 7298. Court of Veterans Appeals Retirement Fund]

§ 7298. *Court of Appeals for Veterans Claims Retirement Fund*

(a) There is established in the Treasury a fund known as the **[Court of Veterans Appeals]** *Court of Appeals for Veterans Claims Retirement Fund*.

* * * * *

(d) The chief judge of the **[Court of Veterans Appeals]** *Court of Appeals for Veterans Claims* shall submit to the President an annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

* * * * *

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

Sec.

8101. Definitions.

* * * * *

SUBCHAPTER V—ENHANCED-USE LEASES OF REAL PROPERTY

8161. Definitions.

* * * * *

[8168. Limitation on number of agreements.]

* * * * *

SUBCHAPTER V—ENHANCED-USE LEASES OR REAL PROPERTY

* * * * *

§ 8168. Limitation on number of agreements

[(a) Not more than 20 enhanced-use leases may be entered into under this subchapter, and not more than 10 such leases may be entered into during any fiscal year.

[(b) An enhanced-use lease under which the primary use made of the leased premises is the provision of child-care services for employees of the Department shall not be counted for the purposes of subsection (a).]

§ 8169. Expiration

The authority of the Secretary to enter into enhanced-use leases under this subchapter expires on December 31, [1997] 2002.

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

Associate Administrator of the National Aeronautics and Space Administration.

* * * * *

Assistant Secretaries, Department of Veterans Affairs [(6)] (7).

* * * * *

[Director of the National Cemetery System.]

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Subpart G—Insurance and Annuities

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CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

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8401. Definitions.

8402. Federal Employees' Retirement System; exclusions.

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8440d. Judges of the United States Court of Veterans Appeals.]

8440d. *Judges of the United States Court of Appeals for Veterans Claims.*

* * * * *

SUBCHAPTER III—THRIFT SAVINGS PLAN

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[§ 8440d. Judges of the United States Court of Veterans Appeals]

§ 8440d. Judges of the United States Court of Appeals for Veterans Claims

(a)(1) A judge of the United States [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* may elect to contribute to the Thrift Savings Fund.

* * * * *

(b)(1) * * *

* * * * *

(5) Section 8433(b) of this title applies in the case of a judge who elects to make contributions to the Thrift Savings Fund and thereafter ceases to serve as a judge of the United States [Court of Veterans Appeals] *Court of Appeals for Veterans Claims* but does not retire under section 7296(b) of title 38.

* * * * *

SECTION 2412 OF TITLE 28, UNITED STATES CODE

§ 2412. Costs and fees

(a) * * *

* * * * *

(d)(1)(A) Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

* * * * *

(F) “court” includes the United States Court of Federal Claims and the United States **[Court of Veterans Appeals]** *Court of Appeals for Veterans Claims*;

* * * * *

SECTION 906 OF TITLE 44, UNITED STATES CODE

§ 906. Congressional Record: gratuitous copies; delivery

The Public Printer shall furnish the Congressional Record only as follows:

of the bound edition—

to the Senate Service Department five copies for the Vice President and each Senator;

* * * * *

to each United States circuit and district judge, and to the chief judge and each associate judge of the United States Court of Federal Claims, the United States Court of International Trade, the Tax Court of the United States, the United States **[Court of Veterans Appeals]** *Court of Appeals for Veterans Claims*, and the United States Court of Appeals for the Armed Forces, upon request to a member of Congress and notification by the Member to the Printer, one copy of the daily, in addition to those authorized to be furnished to Members of Congress under the preceding provisions of this section;

* * * * *

to the library of each United States Court of Appeals, each United States District Court, the United States Court of Federal Claims, the United States Court of International Trade, the Tax Court of the United States, the United States **[Court of Veterans Appeals]** *Court of Appeals for Veterans Claims*, and the United States Court of Appeals for the Armed Forces, upon request to the Public Printer, one copy of the daily, one semimonthly copy, and one bound copy;

* * * * *

SECTION 109 OF THE ETHICS IN GOVERNMENT ACT OF 1978

DEFINITIONS

SEC. 109. For the purposes of this title, the term—

(1) “congressional ethics committees” means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;

* * * * *

(8) “judicial employee” means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Claims Court, of the **[Court of Veterans Appeals]** *Court of Appeals for Veterans Claims*, or of the United States Court of Appeals for the Armed Forces, who is not a judicial officer and who is authorized to

perform adjudicatory functions with respect to proceedings in the judicial branch, or who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

* * * * *

(10) “judicial officer” means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in the Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Claims Court **【Court of Veterans Appeals】** *Court of Appeals for Veterans Claims*, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;

* * * * *

○