

VETERANS BENEFITS IMPROVEMENT ACT OF 1999

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JUNE 25, 1999.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 2280]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2280) to amend title 38, United States Code, to provide a cost-of-living adjustment in rates of compensation paid for service-connected disabilities, to enhance the compensation, memorial affairs, and housing programs of the Department of Veterans Affairs, to improve retirement authorities applicable to judges of the United States Court of Appeals for Veterans Claims, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 24, in the matter after line 14, strike "projects" and insert "programs".

Page 32, line 22, strike "last" and insert "at least".

Page 33, line 24, insert "the" after "whichever is".

Page 41, beginning on line 15, strike section 504 (page 41, line 15 through page 42, line 23), and redesignate section 505 as section 504 (page 43, line 1), and conform the table of contents in section 1(b) accordingly.

INTRODUCTION

On June 10, 1999, the Subcommittee on Benefits met to receive testimony on H.R. 605, a bill to amend title 38 to improve retirement authorities applicable to judges of the U.S. Court of Appeals for Veterans Claims; H.R. 690, a bill to amend title 38 to add bronchiolo-alveolar carcinoma to the list of diseases presumed to be service-connected for certain radiation-exposed veterans; H.R. 708, to amend title 38 to provide for reinstatement of certain benefits administered by the Secretary of Veterans Affairs for remarried surviving spouses of certain veterans upon termination of their marriage; H.R. 784, to amend title 38 to authorize the payment of dependency and indemnity compensation to the surviving spouses of certain former prisoners of war dying with a service-connected disability rated totally disabling at the time of death; H.R. 1214, to amend title 38 to provide for an enhanced quality assurance program within the Veterans Benefits Administration; and H.R. 1765, to amend title 38 to increase, effective December 1, 1999, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans.

On June 16, 1999, the Subcommittee on Benefits met to receive testimony on H.R. 1247, a bill to expand the fund raising authorities of the American Battle Monuments Commission to expedite the establishment of the World War II Memorial in the District of Columbia and to ensure adequate funds for the repair and long-term maintenance of the Memorial; H.R. 1476, a bill to direct the Secretary of Veterans Affairs to establish additional national cemeteries for veterans; H.R. 1484, a bill to authorize appropriations for Homeless Veterans Reintegration Program under the Stewart B. McKinney Homeless Assistance Act; H.R. 1603, a bill to amend title 38 to provide for permanent eligibility to former members of the Selected Reserve for veterans housing loans; H.R. 1663, a bill to designate as a national memorial the memorial being built at the Riverside National Cemetery in Riverside, California to honor recipients of the Medal of Honor; and H.R. 2040, a bill to provide for a comprehensive assessment of national cemeteries.

The Subcommittee consolidated provisions of H.R. 605, H.R. 690, H.R. 708, H.R. 784, H.R. 1214, H.R. 1247, H.R. 1476, H.R. 1484, H.R. 1603, H.R. 1765, H.R. 2040, and H.J Res. 34, a joint resolution congratulating and commending the Veterans of Foreign Wars.

On June 17, 1999, the Subcommittee on Benefits met and recommended that the draft bill be ordered reported favorably to the full Committee by unanimous voice vote.

On June 23, 1999, the full Committee met and ordered H.R. 2280, as amended, reported favorably to the House by unanimous voice vote.

SUMMARY OF THE REPORTED BILL

H.R. 2280 would:

1. Provide, effective December 1, 1999, a cost-of-living adjustment to the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain

service-connected disabled veterans. As in the past, the percentage amount would be equal to the increase in benefits provided under the Social Security Act, which reflects changes in the Consumer Price Index over a 12-month period.

2. Add bronchiolo-alveolar carcinoma, a rare form of lung cancer not associated with tobacco use, to the list of diseases presumed to be service connected and thus compensable for certain radiation-exposed veterans.
3. Authorize the payment of dependency and indemnity compensation to the surviving spouses of certain former prisoners of war with a service-connected disability rated totally disabling at the time of death.
4. Restore eligibility for CHAMPVA medical care, education, and housing loans to surviving spouses who lost eligibility for these benefits as the result of remarriage. These same spouses regained eligibility for dependency and indemnity compensation, but not these related benefits, as the result of legislation enacted in 1998.
5. Expand the fundraising authorities of the American Battle Monuments Commission (ABMC) to expedite the establishment of the World War II Memorial in the District of Columbia and ensure that adequate funds are available for the repair and long-term maintenance of the Memorial. To assure that groundbreaking, construction, and dedication of the Memorial are completed on a timely basis, the ABMC would be authorized to borrow up to \$65 million from the U.S. Treasury.
6. Direct the Secretary of Veterans Affairs to obligate during fiscal year 2000 Advance Planning Funds to establish four additional national cemeteries for veterans, given the increased burials expected through 2008.
7. Require the Secretary of Veterans Affairs to contract for a comprehensive assessment of national cemeteries, including: the one-time repairs required at each national cemetery; the feasibility of making national cemetery standards of appearance commensurate with standards of the finest cemeteries in the world; the number of additional national cemeteries that will be required after 2005; and possible improvements to burial benefits, including increasing the amount of the plot allowance.
8. Provide permanent eligibility for former members of the Selected Reserve for veterans housing loan guaranties. Individuals would continue to be required to serve at least six years in the Reserves or National Guard to be eligible. The current program expires in 2003.
9. Authorize appropriations to the Department of Labor of \$10 million for fiscal year 2000, \$15 million for fiscal year 2001, \$20 million for fiscal year 2002, \$25 million fiscal year 2003, and \$30 million for fiscal year 2004 for the Homeless Veterans' Reintegration Program.

10. Make various improvements to the retirement and survivor annuity programs applicable to judges of the United States Court of Appeals for Veterans Claims, so as to be more consistent with those of other federal judges, and to encourage staggered retirement of judges now serving on the Court.
11. Extend the VA's loan asset sale authority, extend the authority to verify income for VA pension purposes, and extend the formula for liquidation sales in connection with foreclosure of VA guaranteed loans.
12. Provide for an enhanced quality assurance program within the Veterans Benefits Administration, requiring quality reviews of the Compensation and Pension Service, the Education Service, the Vocational Rehabilitation Service, the Loan Guaranty Service, and the Insurance Service.
13. Codify recurring provisions in annual Department of Veterans Affairs Appropriations Acts.

BACKGROUND AND DISCUSSION

TITLE I—COMPENSATION

In May, 1999, there were approximately 2.3 million veterans receiving service-connected disability compensation. The Department of Veterans Affairs expects to spend more than \$18 billion in fiscal year 1999 on service-connected disability compensation. The basic purpose of the disability compensation program is to provide a measure of relief from the impaired earning capacity of veterans disabled as a result of their military service. The amount of compensation payable varies according to the degree of disability, which, in turn, is required by law to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civilian occupations.

To be eligible to receive service-connected disability compensation, a veteran must have contracted a disease, suffered an injury which is not the result of willful misconduct, or aggravated an existing disease or injury during active duty service, and must have been discharged under other than dishonorable conditions.

The responsibility for determining a veteran's entitlement to service-connected disability compensation rests solely with the Department of Veterans Affairs.

As of May, 1999, there were 283,385 surviving spouses and 33,411 children receiving dependency and indemnity compensation (DIC). The VA expects DIC expenditures of \$3.5 billion in fiscal year 1999. Widows and children of veterans who died of causes determined to be service-connected are entitled to receive monthly DIC.

The purpose of this benefit authorized under chapter 13 of title 38, United States Code, is to provide partial compensation to the appropriate survivors for the loss in financial support due to the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and children.

In 1992, Congress reformed the manner in which payments of DIC are made. Under current law, for death occurring on and after January 1, 1993, a base rate of \$861 per month is payable to a surviving spouse. Such amount is increased by \$187 if the veteran suffered from a service-connected disability which was rated 100 percent disabling for a period of eight years immediately preceding death and if the veteran and surviving spouse were continuously married during that period. For service-connected deaths occurring prior to January 1, 1993, payment of DIC is made on the basis of the veteran's military pay grade if the result would be a higher benefit level than under the new payment structure. Rates for these "grandfathered" surviving spouses range from \$861 for the spouse of an E-6 to \$1,834 for the surviving spouse of an O-10. Surviving spouses are currently entitled to an additional \$217 per month for each child.

There is an additional allowance of \$217 monthly which is payable to eligible surviving spouses who are patients in a nursing home or who are in need of the regular aid and attendance of another person.

If there is no surviving spouse receiving dependency and indemnity compensation benefits but there is a surviving child, the child is entitled to \$365 monthly with additional benefits for other children with certain limits due to age, disability, and status as a student.

SECTION 101. Increase in rates of disability compensation and dependency and indemnity compensation.

This section would increase, effective December 1, 1999, the rates of compensation for service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for surviving spouses and children of veterans who die of service-connected causes, as well as the additional amounts for dependents and survivors, and clothing allowances for certain veterans. The percentage of increase would be the same as that automatically received by Social Security recipients.

The Committee annually reviews the service-connected disability compensation and DIC programs to ensure that the benefits provide reasonable and adequate compensation for disabled veterans and their families. Based on this review, the Congress acts annually to provide a cost-of-living adjustment (COLA) in compensation and DIC benefits. The Congress has provided annual increases in these rates for every fiscal year since 1976.

SECTION 102. Presumption that bronchiolo-alveolar carcinoma is service-connected.

Compensation benefits would be available to veterans who were exposed to radiation during their military service and who now have bronchiolo-alveolar carcinoma, a radiation-related cancer of the lung. A January, 1989, Department of Energy animal study concluded that bronchiolo-alveolar carcinoma is "the most common cause of delayed death from inhaled" plutonium 239. In addition, in May of 1994, the Veterans' Advisory Committee on Environmental Hazards advised then-Secretary Jesse Brown that bronchiolo-alveolar carcinoma may be associated with exposure to

ionizing radiation. The Advisory Committee went on to state that when they had recommended that lung cancer be accepted as a radiogenic cancer, their intent was to include most forms of lung cancer, including bronchiolo-alveolar carcinoma.

SECTION 103. Dependency and indemnity compensation for surviving spouses of former prisoners of war.

Under current law, DIC payments may be authorized for the survivors of veterans whose deaths were not the result of their service-connected disability if the veteran was rated totally disabled for a period of ten years or more immediately preceding his death. In the case of former prisoners of war, presumption of service-connection for some conditions has been in effect for less than ten years because Congress. This provision corrects the inequity in DIC that unintentionally penalized widows of former prisoners of war who were 100 percent service-connected at the time of death, but died of a nonservice-connected condition before the minimum 10-year period of time required.

SECTION 104. Reinstatement of certain benefits for remarried surviving spouses of veterans upon termination of their remarriage.

Eligibility for CHAMPVA medical care, education, and housing loans would be restored to those surviving spouses whose eligibility had been severed as the result of remarriage. In the 105th Congress, legislation was passed (Public Law 105-178) to allow the reinstatement of Dependency and Indemnity Compensation benefits to surviving spouses of veterans who subsequent remarriage had terminated, but did not include the benefits provided in this provision.

TITLE II—MEMORIAL AFFAIRS

Subtitle A—American Battle Monuments Commission

In 1993, Congress enacted Public Law 103-32 that authorized creation of the National World War II Memorial and directed the American Battle Monuments Commission (the Commission) to raise funds from private sources for construction of the Memorial. The Committee believes the Commission's efforts over the last six years are commendable. The design concept for the Memorial was approved last summer and the preliminary design was approved in June 1999. The Commission hopes to receive final design approval later this year.

The National World War II Memorial will be the first national memorial dedicated to all those who served during that war and will recognize the commitment and achievement of the entire country. It will serve as a permanent tribute not only to those who fought to protect our nation, but also to those who served on the home front, both individually and in the work place.

Since 1997, the Commission has created an aggressive fundraising program that is accelerating and delivering excellent results. Corporations, foundations, veterans groups, civic associations, states and individual Americans have contributed \$57 million. Millions of interested and committed individuals are becoming involved in the respective campaigns of veterans groups. Leading the

way is a \$7.5 million commitment of the Veterans of Foreign Wars of the United States, a \$3 million goal of The American Legion, and a \$500,000 goal of the Non Commissioned Officers Association. The Commission has already received a \$500,000 gift from the Disabled American Veterans, and the AMVETS, Association of the U. S. Army, the Military Order of the World Wars, and the Paralyzed Veterans of America have each donated or pledged \$100,000 or more.

The Commission reports its pace of fundraising has accelerated since approval of the design concept last summer; the Commission has raised \$28.5 million since the beginning of this fiscal year. However, the Commission reports that many of its contributors have pledged large gifts over a four-to-five year period. The pledges *cannot* be applied to the requirement of the Commemorative Works Act to have available sufficient funds to complete construction of the Memorial. Due to these limitations, even at the Commission's accelerated fundraising pace, it may not be able to break ground until 2003; and the Memorial would not be dedicated until 2005.

The Committee believes the issue is not *if* the World War II Memorial will be built, but *when*. The goal of the groundbreaking in the year 2000 was initially driven by the seven-year legislative deadline; this goal has become public expectation. The urgency is amplified by public awareness that 1,000 World War II veterans die each day. Of the 16 million servicemen and women who served in uniform during World War II, only 6.3 million are alive today. The Commission's projections indicate that 1.2 million or more will die during the three-year delay in dedication that would be caused by waiting until all funds are collected. The Committee believes the Commission is committed to keeping its fundraising efforts growing to make the Memorial a reality before the World War II generation it honors passes into history.

The Committee notes that most of the provisions in Subtitle A of H.R. 2280 were substantively proposed by the Administration at the time of its FY 2000 budget submission in January, 1999. In particular, the Administration sought enactment of legislation that would: (a) preserve any funds remaining after completion of the National World War II Memorial in a fund in the United States Treasury dedicated to future expenses associated with the Memorial; (b) accord the Commission full authority to use and protect intellectual property interests to further efforts to generate funds for the construction of the National World War II Memorial; (c) enhance the Commission authority to accept voluntary services in furtherance of the National World War II Memorial; and (d) extend the period of time for the issuance of a construction permit for the National World War II Memorial until December 31, 2005. The current legislative deadline is May 25, 2000.

The Committee notes that H. R. 2280 also includes a provision it believes is essential to the Commission's success. This provision would allow the Commission borrowing authority to meet the requirement of the Commemorative Works Act to have the full cost of construction plus 10 percent for maintenance of the Memorial prior to groundbreaking.

The Commemorative Works Act does not require the Commission to actually have 110 percent of the estimated cost of construction

on hand in order to obtain a construction permit. It does, however, require the Commission to have access to such funds available at the time of the permit request. While the private sector often issues bonds or borrows funds against pledges receivable, these options are not available to agencies of the federal government.

SECTION 201. Codification and expansion of the authority for World War II Memorial.

This section of the bill authorizes the American Battle Monuments Commission (a) to solicit and accept contributions for a World War II Memorial in the District of Columbia; (b) create in the Treasury a fund for this purpose; (c) establish the uses for the fund, including for establishing the Memorial and its maintenance and preservation, and for other expenses; and (d) provide the Commission the authority to borrow up to \$65 million from the Treasury for groundbreaking, construction, and dedication of the Memorial on a timely basis.

With respect to the borrowing authority authorized by the Committee bill, the Committee reiterates that while the private sector often issues bonds or borrows funds against pledges receivable, these options are *not* available to agencies of the Federal government. In fact, as Major General John P. Herrling, Secretary, American Battle Monuments Commission, testified at the Subcommittee's June 16 hearing, beginning construction before receipt of all necessary funds is not an uncommon endeavor and is often done in the private sector. The Statue of Liberty-Ellis Island project, the Japanese American National Museum in Los Angeles, the New York Hospital building, and the American Society of Civil Engineers headquarters in Reston, Virginia, are but a few examples where construction was begun before the campaign goal was achieved. General Herrling also advised the Committee that the solicitation of private contributions was not hampered by initiation of construction on these projects.

Accordingly, the Committee bill seeks to give the Commission a similar authority by authorizing the Commission to borrow from the Treasury—in effect, granting the Commission a line of credit. Moreover, General Herrling testified that if such authority existed, the required funds would be available, even if never used, and construction of the Memorial could begin *tomorrow*. General Herrling also testified that some foundations will not provide support until actual construction has begun, and there is a high degree of assurance that financing, similar to borrowing authority, is available for the project. Further, General Herrling testified that the borrowing authority will enhance solicitation within the corporate and foundation community and, therefore, expedite the completion of the World War II Memorial Campaign. Finally, General Herrling testified that although 15 states have passed legislation pledging \$15 million to the Memorial, and 20 additional states have introduced legislation to do so, the remaining 15 states have not made a commitment to do so. He said Congressional approval of borrowing authority would guarantee groundbreaking and demonstrate a national commitment that could bring the remaining states on board.

With respect to volunteers, the Commission reports there are more than 200 individual volunteers and four Community Action

Councils working in support of the campaign. The Committee bill permits compensation for injuries a volunteer might sustain in the course of supporting authorized programs of the Memorial.

SECTION 202. General authority to solicit and receive contributions.

This section would specify the conditions by which the Commission may solicit and receive funds, in-kind donations, and gifts from any State, municipal, or private source to carry out its mission. The Commission reports that direct mail has helped the Commission educate the giving public and continues to provide a profitable return for each dollar invested. Americans have responded in record numbers—more than 325,000 to date, generating a net profit of \$6.3 million. The Commission processes more than 20,000 donations per month.

SECTION 203. Intellectual property and related items.

This section would authorize the Commission to use and register intellectual property and grant licenses and enforce such authority. It also requires that the Secretary of Defense provide the Commission with a legal representative in administrative proceedings before the Patent and Trademark Office and Copyright Office.

This authority is sought by the Commission to enhance the Commission's ability to obtain corporate contributions through national trademark-based licensing programs.

Subtitle B—National Cemeteries

SECTION 211. Establishment of additional national cemeteries.

The National Cemetery Administration (NCA), Department of Veterans Affairs (VA), provides and maintains national cemeteries as national shrines honoring those who served in uniform. These national shrines must provide each veteran with a final resting place that reflects the high honor, dignity and respect he or she has earned. Currently, 115 cemeteries in 41 states, the District of Columbia and Puerto Rico comprise the National Cemetery Administration. Successive years of restrained resources have made it impossible to address NCA's long-term operational and field management needs. Budgetary shortfalls have forced the system to address interments and only the highest priority projects while important routine and preventative maintenance and infrastructure repairs have been delayed or not done at all.

Section 211 would require the Secretary of Veterans Affairs to establish, in accordance with chapter 24 of title 38, a national cemetery in each of the four areas of the United States that the Secretary determines to be most in need of a cemetery to serve the needs of veterans and their families. It also requires the Secretary to: (a) obligate fiscal year 2000 Advance Planning Funds (APF) for this purpose; and (b) submit a report to the Congress within 120 days of enactment setting forth the four areas, a schedule for establishment, the estimated cost associated with establishment, and the amount obligated under the APF for this purpose. This section further requires the Secretary to submit to the Congress an annual update of the report required above.

VA reports that at the end of FY 1998, of the 115 existing national cemeteries, only 57 contained available, unassigned gravesites for the burial of both casketed and cremated remains; 33 accepted only cremated remains, and the remains of family members for interment in the same gravesite as a previously deceased family member.

The death rate of World War II veterans is more than 1,000 per day and accelerating. By 2008, veterans will die at a rate of 1,700 per day. Even though VA has identified seven geographic areas in great need of a new cemetery, the Committee is unaware of VA plans to construct new cemeteries beyond the year 2000. In the Committee's opinion, VA has not addressed how it will meet the increased demand for burials at national cemeteries over the next decade.

SECTION 212. Independent study on improvements to veterans' cemeteries.

Section 212 would require the Secretary of Veterans Affairs to enter into a contract with one or more qualified organizations to conduct a study of national cemeteries. The study shall include an assessment of each of the following: (a) the one-time repairs required at each national cemetery under the jurisdiction of NCA, to ensure a dignified and respectful setting appropriate to such cemetery, taking into account the variety of age, climate, and burial options at individual national cemeteries; (b) the feasibility of making standards of appearance of such national cemeteries commensurate with standards of appearance of the finest designed and maintained cemeteries in the world; (c) the number of additional national cemeteries that will be required for the interment and memorialization in such cemeteries of individuals who die after 2005; and (d) improvements to burial benefits under chapter 23 of title 38, United States Code, including a proposal to increase the amount of the benefit for plot allowances under section 2303(b) to better serve veterans and their families.

In presenting the assessment of additional national cemeteries required under paragraph (c), the report shall identify by five-year periods, beginning with 2005 and ending with 2020, the following: (a) the number of additional national cemeteries required during each five-year period; and (b) with respect to each five-year period, the areas in the United States with the greatest concentration of veterans whose needs are not served by national cemeteries or State veterans' cemeteries.

Not later than one year after the date on which a qualified organization enters into a contract, the organization would be required to submit to the Secretary a report setting forth the results of the study conducted and its conclusions. Not later than 120 days after the date on which the report is submitted, the Secretary would be required to transmit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a copy of the report together with the Secretary's comments on the report.

The average age of the veteran population is rising, and the death rate will peak in 2008. Despite this demographic imperative, the VA has no plans to construct new cemeteries beyond the year 2000 and has not addressed how it will meet the increased requests

for burials at national cemeteries over the next decade. NCA's ability to meet the increasing demand for burial benefits in future years is contingent on a long-term planning strategy. The lack of an articulated long-range strategy and proposed funding for new national cemeteries is of great concern to veterans. Also, an evaluation of the need for an increase of the burial plot allowance amount is necessary. The VA Committee recognizes that any increase of the plot allowance would likely have a pay-go implication under the Budget Act, requiring an offset of any increased spending by cost reductions in existing veterans programs.

TITLE III—HOUSING

SECTION 301. Permanent eligibility for housing loans for former members of the Selected Reserve.

The Department of Veterans Affairs authority to guarantee home loans for members of the National Guard and Reserve (Selected Reserve) components will expire on September 30, 2003. As part of today's Total Force Concept, the Selected Reserve is called upon more and more to provide peacetime and combat-ready support for contingencies around the world. The Selected Reserve represents a stable force that acts as a storehouse for skilled personnel and an effective means to retain personnel departing the active services. Unfortunately, the current home loan benefit is very limited as a recruiting incentive since recruits are not eligible for the benefit until they have served honorably for six years. A new recruit will not be eligible for the benefit before the current authority for the loan expires.

The Committee notes that in its January 14, 1999, report to Congress, the Congressional Commission on Servicemembers and Veterans Transition Assistance (Transition Commission) acknowledged the important role Reservists play in the Total Force Concept and recommended that Reservists' eligibility should be permanent and identical to the active duty benefit. The Committee believes that Reservists have earned this modest benefit by virtue of their long and honorable service.

VA observes that home loans made to Selected Reservists have a lower default rate than loans made to veterans using the active-duty benefit. Under current law, Selected Reservists pay an additional 0.75 percent funding fee. The Department has guaranteed about 65,756 loans for members of the Selected Reserve of which 67 percent were made to first-time buyers. VA data show that only 93 of 33,224 loans made to Reservists as of 1996 have been foreclosed—a rate of 0.37 percent. Foreclosure rates for loans made during a comparable period by other VA loan guaranty programs are 0.97 percent—more than two and a half times higher.

Given the important role that the Selected Reserve plays in our nation's Total Force Concept, the cost-effectiveness, popularity, and performance of this program, and its general desirability as a recruiting tool, making the program permanent is appropriate. The Committee sees little advantage in continuing to authorize this program on an incremental basis.

SECTION 302. Homeless Veterans' Reintegration Programs.

This section authorizes appropriations to the Department of Labor (DOL) of \$10 million in FY 2000, \$15 million in FY 2001, \$20 million in FY 2002, \$25 million in FY 2003, and \$30 million in FY 2004 for the Homeless Veterans' Reintegration Program (HVRP). The HVRP brings together a vast resourcery of community resources to a common task to enable homeless veterans to find, secure, and keep a job.

The National Coalition for Homeless Veterans estimates that one-third of the homeless men in the United States are veterans. On any given evening, it is estimated that more than 275,000 veterans, the equivalent of 17 infantry divisions, will sleep in doorways, in boxes, and on grates in our cities—and in barns, and lean-tos, and on the ground in rural America. The January, 1999, report of the Transition Commission estimates the number of homeless veterans to be even higher, between 300,000 and 500,000.

The Committee notes that since 1988, the Homeless Veterans' Reintegration Program, a modest, cost-effective program designed to help homeless veterans reenter and succeed in the job market, has proven its worth. The Department of Labor reports that more than 24,600 homeless veterans have received help and support from community-based organizations funded under HVRP, and 13,308 of these veterans have been placed in jobs at a cost of less than \$1,500 per veteran.

The Committee notes the Transition Commission found that “[h]omeless veterans personify the ultimate stage of a failed transition from active duty to civilian life” and that the “Department of Labor’s HVRP program has proven itself a cost-efficient model for employment and training of homeless veterans.” The Committee agrees.

The HVRP, although limited by funding to serving a very small percentage of the total homeless veteran population, has several unique virtues.

First, the funds may be used to serve any homeless veteran, with no restrictions.

Second, the grants are *competitively* awarded to service providers with proven track records in serving effectively and efficiently this unique population.

Third, the funds are dedicated to employment assistance activities and may not be diverted to other homeless veterans' needs (such as housing), which increases the likelihood of the attendant job placement goals being met or exceeded.

Last, the funds are administered by the Veterans Employment and Training Service, a Department of Labor agency dedicated to serving veterans and experienced in managing job placement programs.

HVRP is viewed by stakeholders and Federal partners as the linchpin for homeless veterans. Other Federal programs simply provide shelter and will continue to do so, but without jobs, these veterans will not be able to leave the shelters and seek full economic opportunity and independence. Cumulatively, from program year 1989 to 1994, the HVRP served 19,516 veterans and placed into jobs 9,808 veterans who were homeless, with a total funding of \$19 million. In program year 1994, with a total of \$5.5 million,

the program served 7,432 veterans and placed 4,017 homeless veterans.

The Committee notes the demand for HVRP grants is a good indicator of communities' interest in helping homeless veterans. The Veterans Employment and Training Services' recent solicitation for grant applications to operate the HVRP programs drew 53 applications for funding. VETS was able to fund 18 urban and 4 rural areas. The 53 applicants requested a total of \$6.3 million in funding despite limitations on HVRP grantees (not more than \$150,000 per project, restricted to the largest 75 metropolitan areas). Interest in metropolitan areas in assisting homeless veterans is high. Response to the rural HVRP solicitation for grant applications was similar; there were nine applicants requesting \$629,000 in assistance despite restrictions on HVRP grantees.

This year the President has proposed \$5 million for HVRP. The Committee notes that the funding for HVRP veterans' employment and training initiatives has failed to keep pace with the funding for other agencies that provide transitional housing and supportive services. For example, Congress has increased funding for HUD-administered homeless programs from \$72 million in FY 1988 to \$823 million in FY 1998, and also increased health care and substance abuse programs administered by the Department of Veterans Affairs from \$13 million to \$76 million during the same time period.

SECTION 303. Transitional housing loan guarantee program technical amendment.

This section would authorize periodic audits of the multifamily transitional housing project, after the first three years of the project's operation. Congress authorized the Guaranteed Transitional Housing Loans for Homeless Veterans Program in Public Law 105-368. The program is a pilot project designed to expand the supply of transitional housing for homeless veterans. This program will guarantee up to 15 loans with a maximum aggregate value of \$100 million. Not more than five loans may be guaranteed in the first three years of the program.

TITLE IV—COURT OF APPEALS FOR VETERANS CLAIMS

The Judicial Review Act of 1988, Public Law 100-687, created in 1989 the U.S. Court of Appeals for Veterans Claims as an Article I court. The Committee attempted to replicate many of the features of the Federal Tax Court when drafting the current statutory provisions governing the Court of Appeals for Veterans Claims. The Court's seven judges are appointed by the President for a 15-year term and may be reappointed.

During the 105th Congress, the House passed legislation incorporating many changes to current law requested by the Court. Because the Senate did not concur with the need for many of these changes, they did not become law. In the 106th Congress, Mr. Stump and Mr. Evans introduced H.R. 605 on February 4, 1999, and the Court provided views on H.R. 605 on May 14, 1999. In proposing these changes, the Committee intends to create a personnel system that provides equity relative to other federal court systems and encourages efficient management of the Court's workload.

Because the Court was established in 1989, and the initial appointments to the Court were made relatively close in time to one another, five of the remaining six original appointees will be eligible for retirement within an 11-month period in 2004 and 2005. The Committee is very concerned that such an en masse departure would shut down the Court, with disastrous consequences for veterans whose appeals are pending.

To smooth the workload for active judges and to retain a court's experience base, nearly all retired federal judges volunteer to continue working on a part-time basis. They usually carry about 25 percent of a normal caseload and in return, receive retired pay equal to that of an active judge. Judges who do not volunteer for part-time work while retired do not receive the increased retired pay. The Committee believes that it is important to provide the Court and its retired judges the same authority and responsibilities as other federal court systems as an effective tool to prevent lengthening the time a veteran must wait for a decision on an appeal.

The Committee does not intend for the Court's ability to recall retired judges to be a means to increase the number of active members of the Court through non-legislative means. The Committee believes the authority to recall retired judges should be used only when necessary to avoid increased delays in decisions on claims.

SECTION 401. Authority to prescribe rules and regulations.

Section 401 would allow the Court to prescribe rules and regulations applicable to chapter 72, title 38 U.S.C., subchapters III and V.

SECTION 402. Recall of retired judges.

This section requires a retiring judge of the U.S. Court of Appeals for Veterans Claims to make an irrevocable decision at the time of retirement as to whether he or she will be available for recall to service as a judge of the Court. Section 402 also authorizes the Chief Judge of the Court to recall retired judges for periods of up to 90 days, or for up to 180 days with the written consent of the retired judge, and establishes conditions for removal from recall status and the pay of recall-eligible judges.

SECTION 403. Calculation of years of service as a judge.

Section 403 directs that 183 days or more of service be counted as a full year in the calculation of years of service for the purposes of retirement.

SECTION 404. Judges' retired pay.

This section would authorize pay for recall-eligible retired judges at the rate paid to active judges of the Court, and for those who are not recall-eligible at the rate of pay on the date of retirement. Increases in the salary of active judges would also be provided to recall-eligible judges. No increase would be provided for non-recall eligible judges. Judges whose retirement benefit is less than the salary of office and who are available for recall would be eligible for periodic increases provided to other federal retirees as long as retired pay does not exceed the pay of active judges. This section

also would direct that if a regular or reserve member of a uniformed service who is receiving retired or retainer pay becomes a judge of the Court, or becomes eligible therefor while a Judge of the Court, such retired or retainer pay shall not be paid during the Judge's regular active service on the Court, but shall be resumed or commenced without reduction upon retirement as a judge.

SECTION 405. Survivor annuities.

This section would change the required contributions and eligibility requirements for the survivor annuity program to make it consistent with the Judicial Survivor Annuity System (JSAS), the survivor annuity program for Article III judges.

SECTION 406. Limitation on activities of retired judges.

The Committee believes that it is inappropriate for a retired judge of the Court to represent veterans while drawing retired pay because such representation creates a potential conflict of interest, especially if the judge is recall-eligible. If a recall-eligible judge represents a client in making any claim against the Court, he or she will be considered to have declined recall service and be removed from the status of a recall-eligible judge. The pay of the judge will remain the pay at the time of the removal of recall status. This section also clarifies that a recall-eligible judge is considered to be an officer or employee of the United States only during periods when the judge is actually serving in recall status.

SECTION 407. Early retirement authority for current judges in order to provide for staggered terms of judges.

Section 407 would authorize early retirement of one judge per year for the years 1999 through 2003. This provision would eliminate the potential for en masse retirements and provide for an orderly replacement of the current panel of judges. The provision would also specify the computation of reduced retired pay for judges who retire early. Under the formula, a judge's age and years of judicial service would be divided by 80 to yield a percentage to be applied to the retirement benefit currently authorized for judges of the Court.

TITLE V—OTHER MATTERS

SECTION 501. Repeal of certain sunset provisions.

This section would continue cost savings provisions by extending the loan asset sale authority in chapter 37 of title 38, United States Code, extending the income verification for pension provision in chapter 53 of title 38, U.S.C., and extending the formula for liquidation sales in chapter 37 of title 38, U.S.C.

Section 3720(h) of title 38, United States Code, authorizes VA to guarantee the timely payment of principal and interest to purchasers of real estate mortgage investment conduits (REMICs). REMICs are used to "bundle" and market vendee loan notes. Such notes are made in connection with the sale of properties by VA to purchasers of VA-acquired real estate. Using this authority, VA guarantees to REMIC purchasers that principal and interest will be paid in a timely manner which in turn enhances the value of

the REMICs in the secondary market and increases the return to VA when such securities are sold. This provision expires on September 30, 2002.

Section 3732 of title 38, United States Code, specifies that VA has two options when a property, the financing of which is guaranteed under the VA Home Loan Guaranty Program, goes into foreclosure. VA may simply pay off the guaranty, or elect to purchase the property securing the loan in default and resell it. The decision on the course of action to take depends, generally, on VA calculations as to which action would be less costly and, therefore, more advantageous to the government. The Secretary's authority to use "no-bid" procedures, by which VA determines which option is more advantageous, expires on October 1, 2002.

VA administers a needs-based pension program and provides priority access to health care services on a means-tested basis. Section 5317 of title 38, United States Code, and section 6103 of the Internal Revenue Code of 1986, authorize VA to verify the eligibility of recipients of, or applicants for, VA needs-based benefits and VA means-tested medical care by gaining access to income records of the Department of Health and Human Services/Social Security Administration and the Internal Revenue Service. These provisions were originally enacted as section 8051 of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990. This provision expires September 30, 2002.

SECTION 502. Enhanced quality assurance program within the Veterans Benefits Administration.

Section 502 requires the Secretary of Veterans Affairs to implement a program to review and evaluate initial decisions made by the Veterans Benefits Administration (VBA) on claims for compensation, pension, education, vocational rehabilitation and counseling, home loans, and insurance benefits. The program must comply with generally accepted governmental standards for independence and internal control. Currently, VBA has 25.3 FTE devoted to quality review in the five services. Nonetheless, the Strategic Technical Accuracy Review reports an accuracy rate of only 64 percent in a review of claims involving more difficult rating decisions. This is less than two of three claims correctly decided. This provision addresses problems identified by the General Accounting Office and the VA Inspector General in their reviews of VBA quality assurance programs. While the statute calls for adequate staff to assure that the relevant governmental standards are met, no additional staffing is mandated in Section 502.

SECTION 503. Extension of Advisory Committee on Minority Veterans.

Section 503 extends the Advisory Committee on Minority Veterans, which was established in Public Law 103-466. The Advisory Committee provides advice and consultation on the needs, problems, and concerns of the minority veterans' community. Because of concerns about whether the Secretary and other officials with responsibility for program management are utilizing recommendations made by this and other statutory advisory committees, the Committee plans to conduct further oversight of these advisory

committees. If the advisory committees cannot demonstrate the relevance of their activities, the Committee may reexamine their charters.

SECTION 505. Codification of recurring provisions in annual Department of Veterans Affairs appropriations acts.

This provision, effective for fiscal year 2001, enacts as permanent law in title 38, United States Code, certain recurring provisions of annual appropriations Acts. Each year the annual DVA appropriations Act includes in each appropriating paragraph certain recurring “boilerplate” language that is unchanged from year to year. In many cases, this language is quite complex, resulting in a statutory provision that is quite difficult to read. Much of this language provides annual authority for the use of the funds for certain incidental or related purposes not otherwise authorized by law. The Committee’s provision would enact many of those recurring provisions as permanent law. This would obviate the need to repeat the language year after year, would provide greater certainty to the executive branch as to the permanence of those provisions, and would make the annual provisions of the DVA appropriations Act both easier to prepare and easier to read. It is expected that in the future the annual appropriations paragraph could simply state an appropriation as being “For [major purpose], including the purposes stated in [section reference] of title 38, United States Code, § ____”.

SECTION-BY-SECTION ANALYSIS

Section 1 states that the title of the Act is the “Veterans Benefits Improvement Act of 1999”.

Section 2 states that all references made in the Act are to title 38, United States Code, unless otherwise specified.

TITLE I

Section 101 would direct the Secretary to increase the service-connected compensation, dependency and indemnity compensation (DIC), and related payments made to veterans and their survivors under chapters 11 and 13 of title 38, United States Code, by a percentage equal to that given to Social Security recipients. This amount is based upon changes in the Consumer Price Index.

Section 102 would amend section 1112 (c) (2) by adding bronchiolo-alveolar carcinoma to the list of presumed service-connected illnesses in veterans exposed to radiation.

Section 103 would amend section 1318(b) to authorize the payment of DIC to the surviving spouses of veterans dying after September 30, 1999, who were former prisoners of war, were rated totally disabled for service-connected disability at the time of death, and had been diagnosed as having a disease specified in section 1112(b); such section lists diseases that may be service-connected on a presumptive basis when becoming manifest to a degree of disability of ten percent or more in a former prisoner of war.

Section 104 would amend section 103(d) to restore eligibility for medical care for veterans’ survivors and dependents under section 1713 (CHAMPVA), educational assistance under chapter 35, and housing loans under chapter 37. (Congress already enacted similar

provisions with respect to DIC in section 8207 of the Transportation Equity Act for the 21st Century, Public Law 105–178.)

TITLE II

Section 201(a) would amend chapter 21 of title 36, United States Code, by adding a new section 2113 that would expand and clarify the American Battle Monument Commission's (ABMC) existing authority under P.L. 103–32 to solicit and accept contributions for a World War II memorial in the District of Columbia; (a) new section 2113(a) would continue the ABMC's authority to solicit and accept contributions for a memorial to be established by the ABMC on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war; (b) new section 2113(b) would codify the existing WWII memorial fund and modify it to reflect changes contained in this section; (c) new section 2113(c) would modify the purposes for which funds deposited in the Treasury may be used; (d) new section 2113(d) would provide the ABMC authority to borrow up to \$65 million from the Treasury for groundbreaking, construction, and dedication of the Memorial on a timely basis; (e) new section 2113(e) speaks to treatment of borrowing authority and would require that in determining whether the ABMC has sufficient funds to complete construction of the World War II Memorial, as required by section 8 of the Commemorative Works Act, the Secretary of the Interior shall consider the \$65 million in funds that the ABMC may borrow from the Treasury as funds available to complete construction of the memorial, whether or not the ABMC has actually exercised the authority to borrow such funds; (f) new section 2113(f) would authorize the ABMC to accept voluntary services in furtherance of the fundraising activities relative to the Memorial and to (1) establish that a person providing voluntary services shall be considered to be a Federal employee for purposes of chapter 81 of title 5, United States Code, relating to compensation for work-related injuries, and chapter 171 of title 28, relating to tort claims; (2) authorize the ABMC to provide for reimbursement of incidental expenses that are incurred by a person providing voluntary services; and (3) disallow the use of volunteer services to displace or replace any Federal employee; (g) new section 2113(g) requires that a contract entered into by the ABMC for the design or construction of the World War II Memorial is not a funding agreement as that term is defined in section 201 of title 35, United States Code; and (h) new section 2113(h) would extend the authority to establish the Memorial to December 31, 2005; section 201(b) would make conforming amendments to Public Law 103–32 (40 U.S.C. 1003 note) by striking sections 3, 4, and 5; and section 201(c) would upon enactment of this Act, require the Secretary of the Treasury to transfer amounts in the memorial fund created by section 4(a) of P.L. 103–32 to the fund that would be created by section 2113(b) of title 36, United States Code, as added by subsection 2113(a).

Section 202 would amend section 2103(e) of title 36, United States Code, to specify the conditions by which the Commission may solicit and receive funds and in-kind donations. It expands the sources from which the Commission may solicit and receive such

funds and requires the Commission to prescribe guidelines to avoid conflicts of interest.

Section 203 would amend chapter 21 of title 36, United States Code, by adding a new section 2114 entitled “intellectual property and related items” to (a) authorize the Commission to use and register intellectual property and grant licenses, and enforce such authority; and (b) require that the Secretary of Defense provide the ABMC with a legal representative in administrative proceedings before the Patent and Trademark Office and Copyright Office.

Section 204 would make technical amendments to chapter 21 of title 36, United States Code.

Section 211 would require the Secretary of Veterans Affairs to establish, in accordance with chapter 24, a national cemetery in each of the four areas of the United States that the Secretary determines to be most in need of a cemetery to serve the needs of veterans and their families. It also requires the Secretary to (a) obligate fiscal year 2000 Advance Planning Funds (APF) for this purpose; and (b) submit a report to the Congress within 120 days of enactment setting forth the four areas, a schedule for cemetery establishment, the estimated cost associated with each establishment, and the amount obligated under the APF for this purpose. This section further requires the Secretary to submit to the Congress an annual update of the report required above.

Section 212 would require the Secretary of Veterans Affairs to contract for an independent assessment on improvements needed at veterans cemeteries, including: (a) one-time repairs; (b) standards of appearance; (c) the number of cemeteries that will be required by five-year period beginning with 2005 and ending with 2020; and (d) needed improvements to burial benefits, including plot allowances. This section further would require that the organization conducting the independent assessment submit its report to the Secretary of Veterans Affairs within one year and that within 120 days thereafter the Secretary transmit the report to the Committees on Veterans’ Affairs of the House and Senate, along with any comments the Secretary may have.

TITLE III

Section 301 would amend section 3702 (a)(2)(E) to make permanent the entitlement for VA housing loan benefits currently furnished to persons who serve for six years in the Selected Reserve.

Section 302 would add a new section to chapter 4 of title 38, United States Code, to authorize an appropriation to the Department of Labor of \$10 million for fiscal year 2000, \$15 million for fiscal year 2001, \$20 million for fiscal year 2002, \$25 million for fiscal year 2003, and \$30 million for fiscal year 2004 for the Homeless Veterans’ Reintegration Program.

Section 303 would amend section 3775 to authorize periodic audits of the multifamily transitional housing project after the first three years of the project’s operation.

TITLE IV

Section 401 would amend section 7254 to give the Court of Appeals for Veterans Claims (the Court) the authority to prescribe rules and regulations to carry out chapter 72.

Section 402 would create a new section 7257 that would require a retiring judge of the Court to make an irrevocable decision at the time of retirement as to whether the judge will be available for recall to service as a judge of the Court. This section also would authorize the Chief Judge of the Court to recall retired judges for periods of up to 90 days, or for up to 180 days with the written consent of the retired judge, and establishes conditions for removal from recall status and the pay of recall-eligible judges.

Section 403 would amend section 7296(b) to add a new paragraph directing that 183 days or more of service be counted as a full year in the calculation of years of service for the purposes of retirement.

Section 404 would amend section 7296(c)(1) to authorize pay for recall-eligible judges at the rate paid to active judges of the Court, and those who are not recall-eligible at the rate of pay on the date of retirement. Increases in the salary of active judges would also be provided to recall-eligible judges. No increase would be provided for non-recall eligible judges. Judges whose retirement benefit is less than the salary of office and who are available for recall would be eligible for periodic increases provided to other federal retirees as long as retired pay does not exceed that pay of active judges.

Section 405 would amend section 7297(a)(5) to make a number of changes to the annuity plan for the survivors of deceased judges, making it comparable to the Judicial Survivor Annuity System (JSAS), the survivor annuity program for Article III judges. It would (a) reduce the period necessary to qualify as a surviving spouse from two years (38 U.S.C. 7297(a)(5)) to one year, as provided by the JSAS. For JSAS, see 28 U.S.C. section 376(a)(3)(A); (b) expand the period to elect participation while in office (38 U.S.C. section 7297(b)) to permit a retired judge who marries to elect participation within six months after marriage, as provided for by JSAS. For JSAS, see 28 U.S.C. section 376(a)(1)(ii); (c) revise the amount of contributions (38 U.S.C. section 7297(c)) by judges from 3.5 percent to 2.2 percent of salary and retired pay, in accordance with the comparable JSAS levels. For JSAS, see 28 U.S.C. section 376(b)(1), (b)(1)(B); (d) exclude from the 3 percent annum interest payment requirement (38 U.S.C. section 7297(d)) any period during which a judge was separated from certain previous service as described in 28 U.S.C. section 376(d)(2) and was not receiving retired pay based on service as a judge or retirement salary as defined in 28 U.S.C. section 376(a)(2); such interest payment is not required by JSAS. For JSAS, see 28 U.S.C. section 376(a)(2), (d)(2); (e) reduce the minimum period of civilian service needed for purposes of eligibility for a survivor annuity from five years (38 U.S.C. section 7297(f)(1), (h)(1)) to 18 months, and provide for an exemption from the 18-month requirement where the judge has been assassinated, both as provided for in JSAS. For JSAS, see 28 U.S.C. sections 376(o)(1)(A), (B) and 376(h)(1)(B), (o)(2); and (f) eliminate the requirement that the surviving spouse be at least 50 years of age in order to receive a survivor annuity (38 U.S.C. section 7297(f)(1)(A)); no minimum age is provided for in JSAS. For JSAS, see 28 U.S.C. section 376(h)(1)(i).

Section 406 would add a new section to chapter 72 requiring that if a recall-eligible judge represents a client in making any claim re-

lated to veterans' benefits against the United States or an agency of the United States, the judge will be considered to have declined recall service and shall be removed from the status of a recall-eligible judge. The pay of the judge would be frozen at the rate of pay of the judge at the time of the removal from recall status. Section 7299(b) also clarifies that a recall-eligible judge is considered to be an officer or employee of the United States only during periods when the judge is actually in recall status.

Section 407 would authorize early retirement of one judge per year for the years 1999 through 2003. This provision would eliminate the potential for en masse retirements and provide for an orderly replacement of the current panel of judges. The provision would also specify the computation of reduced retired pay for judges who retire early. Under the formula, a judge's age and years of judicial service would be divided by 80 to yield a percentage to be applied to the retirement benefit currently authorized for judges of the Court.

TITLE V

Section 501 would continue costs savings provisions by extending the loan asset sale authority in chapter 37 of title 38, United States Code, extending the income verification for pension provision in chapter 53 of title 38, U.S.C., and extending the formula for liquidation sales in chapter 37 of title 38, U.S.C.

Section 3720(h) of title 38 authorizes VA to guarantee the timely payment of principal and interest to purchasers of real estate mortgage investment conduits (REMICs). REMICs are used to "bundle" and market vendee loan notes. Such notes are made in connection with the sale of properties by VA to purchasers of VA-acquired real estate. Using this authority, VA guarantees to REMIC purchasers that principal and interest will be paid in a timely manner which in turn enhances the value of the REMICs in the secondary market and increases the return to VA when such securities are sold. This provision expires on September 30, 2002.

Section 3732 of title 38 specifies that VA has two options when a property, the financing of which is guaranteed under the VA Home Loan Guaranty Program, goes into foreclosure. VA may simply pay off the guaranty or elect to purchase the property securing the loan in default and resell it. The decision on the course of action to take depends, generally, on VA calculations as to which action would be less costly and, therefore, more advantageous to the government. The Secretary's authority to use "no-bid" procedures, by which VA determines which option is more advantageous, expires on October 1, 2002.

VA administers a needs-based pension program and provides priority access to health care services on a means-tested basis. Section 5317 of title 38 and section 6103 of the Internal Revenue Code of 1986, authorize VA to verify the eligibility of recipients of, or applicants for, VA needs-based benefits and VA means-tested medical care by gaining access to income records of the Department of Health and Human Services/Social Security Administration and the Internal Revenue Service. These provisions were originally enacted as section 8051 of Public Law 101-508, the Omnibus Budget

Reconciliation Act of 1990. This provision expires September 30, 2002.

Section 502 would add a new subchapter to chapter 77 to require VA to carry out a quality assurance program in the Veterans Benefits Administration, either through a single quality assurance division or through separate quality assurance entities for each of VBA's principal organizational elements. The Secretary would be required to assure that the establishment and operation of the quality assurance entity meet generally applicable governmental standards for independence and internal controls for the performance of quality reviews of Government performance and results. Further, the number of full-time VBA employees assigned to quality assurance functions must be adequate to perform those functions. Finally, the Secretary would be required to submit an annual report to Congress on the quality assurance activities carried out under the program's provisions and other data.

Section 503 would amend section 544(e) to extend the Advisory Committee on Minority Veterans from December 31, 1999 to December 31, 2004.

Section 504 would amend section 313 to codify recurring provisions in annual Department of Veterans Affairs appropriations Acts.

OVERSIGHT FINDINGS

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

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

At the time of filing this report, CBO had not provided the Committee with a cost estimate.

INFLATIONARY IMPACT STATEMENT

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

APPLICABILITY TO THE LEGISLATIVE BRANCH

The reported bill would not be applicable to the legislative branch under the Congressional Accountability Act, Public Law 104-1, because the bill would only affect certain Department of Veterans Affairs, Department of Labor, and U.S. Court of Appeals for Veterans Claims programs and beneficiaries.

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 United States Constitution, the reported bill is authorized by Congress' power to "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(e) 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

* * * * *

PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 1—GENERAL

* * * * *

Sec.

- 101. Definitions.
- 116. *Definition of cost of direct and guaranteed loans.*

§ 103. Special provisions relating to marriages

- (a) * * *

(d)(1) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of benefits to such person as the surviving spouse of the veteran if the remarriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Secretary determines that the annulment was secured through fraud by either party or collusion.

(2) *The remarriage of the surviving spouse of a veteran shall not bar the furnishing of benefits specified in paragraph (5) to such person as the surviving spouse of the veteran if the remarriage has been terminated by death or divorce unless the Secretary determines that the divorce was secured through fraud or collusion.*

(3) *If the surviving spouse of a veteran ceases living with another person and holding himself or herself out openly to the public as that person's spouse, the bar to granting that person benefits as the surviving spouse of the veteran shall not apply in the case of the benefits specified in paragraph (5).*

(4) *The first month of eligibility for benefits for a surviving spouse by reason of this subsection shall be the month after—*

- (A) *the month of the termination of such remarriage, in the case of a surviving spouse described in paragraph (2); or*
- (B) *the month of the cessation described in paragraph (3), in the case of a surviving spouse described in that paragraph.*

(5) *Paragraphs (2) and (3) apply with respect to benefits under the following provisions of this title:*

- (A) *Section 1311, relating to dependency and indemnity compensation.*

(B) Section 1713, relating to medical care for survivors and dependents of certain veterans.

(C) Chapter 35, relating to educational assistance.

(D) Chapter 37, relating to housing loans.

* * * * *

§ 116. Definition of cost of direct and guaranteed loans

For the purpose of any provision of law appropriating funds to the Department for the cost of direct or guaranteed loans, the cost of any such loan, including the cost of modifying any such loan, shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

* * * * *

CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

* * * * *

§ 313. Availability of appropriations

(a) * * *

* * * * *

(c) *COMPENSATION AND PENSION.*—Funds appropriated for Compensation and Pensions are available for the following purposes:

(1) The payment of compensation benefits to or on behalf of veterans as authorized by section 107 and chapters 11, 13, 51, 53, 55, and 61 of this title.

(2) Pension benefits to or on behalf of veterans as authorized by chapters 15, 51, 53, 55, and 61 of this title and section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978.

(3) The payment of benefits as authorized under chapter 18 of this title.

(4) Burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payments of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 540 et seq.), and other benefits as authorized by sections 107, 1312, 1977, and 2106 and chapters 23, 51, 53, 55, and 61 of this title and the World War Adjusted Compensation Act (43 Stat. 122, 123), the Act of May 24, 1928 (Public Law No. 506 of the 70th Congress; 45 Stat. 735), and Public Law 87-875 (76 Stat. 1198).

(d) *MEDICAL CARE.*—Funds appropriated for Medical Care are available for the following purposes:

(1) The maintenance and operation of hospitals, nursing homes, and domiciliary facilities.

(2) Furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department, including care and treatment in facilities not under the jurisdiction of the Department.

(3) Furnishing recreational facilities, supplies, and equipment.

(4) *Funeral and burial expenses and other expenses incidental to funeral and burial expenses for beneficiaries receiving care from the Department.*

(5) *Administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department.*

(6) *Oversight, engineering, and architectural activities not charged to project cost.*

(7) *Repairing, altering, improving, or providing facilities in the medical facilities and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials.*

(8) *Uniforms or uniform allowances, as authorized by sections 5901 and 5902 of title 5.*

(9) *Aid to State homes, as authorized by section 1741 of this title.*

(10) *Administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of this title and Public Law 87-693, popularly known as the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.).*

(e) **MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES.**—*Funds appropriated for Medical Administration and Miscellaneous Operating Expenses are available for the following purposes:*

(1) *The administration of medical, hospital, nursing home, domiciliary, construction, supply, and research activities authorized by law.*

(2) *Administrative expenses in support of planning, design, project management, architectural work, engineering, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department, including site acquisition.*

(3) *Engineering and architectural activities not charged to project costs.*

(4) *Research and development in building construction technology.*

(f) **GENERAL OPERATING EXPENSES.**—*Funds appropriated for General Operating Expenses are available for the following purposes:*

(1) *Uniforms or allowances therefor.*

(2) *Hire of passenger motor vehicles.*

(3) *Reimbursement of the General Services Administration for security guard services.*

(4) *Reimbursement of the Department of Defense for the cost of overseas employee mail.*

(5) *Administration of the Service Members Occupational Conversion and Training Act of 1992 (10 U.S.C. 1143 note).*

(g) **CONSTRUCTION.**—*Funds appropriated for Construction, Major Projects, and for Construction, Minor Projects, are available, with respect to a project, for the following purposes:*

(1) *Planning.*

(2) *Architectural and engineering services.*

(3) Maintenance or guarantee period services costs associated with equipment guarantees provided under the project.

(4) Services of claims analysts.

(5) Offsite utility and storm drainage system construction costs.

(6) Site acquisition.

(h) CONSTRUCTION, MINOR PROJECTS.—In addition to the purposes specified in subsection (g), funds appropriated for Construction, Minor Projects, are available for—

(1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by a natural disaster or catastrophe; and

(2) temporary measures necessary to prevent or to minimize further loss by such causes.

* * * * *

CHAPTER 5—AUTHORITY AND DUTIES OF THE SECRETARY

* * * * *

§ 544. Advisory Committee on Minority Veterans

(a) * * *

* * * * *

(e) The Committee shall cease to exist December 31, [1999] 2004.

* * * * *

PART II—GENERAL BENEFITS

* * * * *

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * *

§ 1112. Presumptions relating to certain diseases and disabilities

(a) * * *

* * * * *

(c)(1) For the purposes of section 1110 of this title, and subject to the provisions of section 1113 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran shall be considered to have been incurred in or aggravated during active military, naval, or air service, notwithstanding that there is no record of evidence of such disease during a period of such service.

(2) The diseases referred to in paragraph (1) of this subsection are the following:

(A) * * *

* * * * *

(P) *Bronchiolo-alveolar carcinoma.*

* * * * *

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

* * * * *

§ 1311. Dependency and indemnity compensation to a surviving spouse

(a) * * *

* * * * *

[(e)(1) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of dependency and indemnity compensation to such person as the surviving spouse of the veteran if the remarriage is terminated by death, divorce, or annulment unless the Secretary determines that the divorce or annulment was secured through fraud or collusion.

[(2) If the surviving spouse of a veteran ceases living with another person and holding himself or herself out openly to the public as that person's spouse, the bar to granting that person dependency and indemnity compensation as the surviving spouse of the veteran shall not apply.

[(3) The first month of eligibility for payment of dependency and indemnity compensation to a surviving spouse by reason of this subsection shall be the later of the month after—

[(A) the month of the termination of such remarriage, in the case of a surviving spouse described in paragraph (1); or

[(B) the month of the cessation described in paragraph (2), in the case of a surviving spouse described in that paragraph.]

* * * * *

§ 1318. Benefits for survivors of certain veterans rated totally disabled at time of death

(a) * * *

(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability [that either—] *rated totally disabling if—*

(1) *the disability was continuously rated totally disabling for a period of 10 or more years immediately preceding death; [or]*

(2) [if so rated for a lesser period, was so rated continuously] *the disability was continuously rated totally disabling for a period of not less than five years from the date of such veteran's discharge or other release from active duty[.]; or*

(3) *the veteran was a former prisoner of war who died after September 30, 1999, and who had been diagnosed as having one of the diseases specified in section 1112(b) of this title.*

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

* * * * *

§ 3702. Basic entitlement

(a)(1) The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter. In the case of any veteran who served on active duty during two or more of the periods specified in paragraph (2) for which eligibility for the housing loan benefits under this chapter may be granted, entitlement derived from service during the most recent such period (A) shall cancel any unused entitlement derived from service during any earlier such period, and (B) shall be reduced by the amount by which entitlement from service during any earlier such period has been used to obtain a direct, guaranteed, or insured housing loan—

(i) * * *

* * * * *

(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

(B) * * *

* * * * *

(E) **【**For the period beginning on October 28, 1992, and ending on September 30, 2003, each *Each* veteran described in section 3701(b)(5) of this title.

* * * * *

§ 3720. Powers of Secretary

(a) * * *

* * * * *

(h)**【**(1)**】** The Secretary may, upon such terms and conditions as the Secretary considers appropriate, issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under this chapter.

【(2)**】** The Secretary may not under this subsection guarantee the payment of principal and interest on certificates or other securities issued or approved after December 31, 2002.**】**

* * * * *

§ 3732. Procedure on default

(a) * * *

* * * * *

(c)(1) For purposes of this subsection—

(A) * * *

* * * * *

[(11) This subsection shall apply to loans closed before October 1, 2002.]

* * * * *

§ 3775. Audit

(a) During each of the first 3 years of operation of a multifamily transitional housing project with respect to which a loan is guaranteed under this subchapter, there shall be an annual, independent audit of such operation. Such audit shall include a detailed statement of the operations, activities, and accomplishments of such project during the year covered by such audit. The party responsible for obtaining such audit (and paying the costs therefor) shall be determined before the Secretary issues a guarantee under this subchapter.

(b) *After the first 3 years of operation of such a multifamily transitional housing project, the Secretary may provide for periodic audits of the project.*

* * * * *

CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

| | | | | | | |
|-------|---|---|---|---|---|---|
| Sec. | | | | | | |
| 4100. | Findings. | | | | | |
| | | * | * | * | * | * |
| 4111. | <i>Homeless veterans' reintegration programs.</i> | | | | | |
| | | * | * | * | * | * |

§ 4111. Homeless veterans' reintegration programs

(a) *IN GENERAL.—The Secretary, acting through the Assistant Secretary of Labor for Veterans' Employment and Training, shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to expedite the reintegration of homeless veterans into the labor force.*

(b) *AUTHORITY TO MONITOR EXPENDITURE OF FUNDS.—The Secretary may collect such information as the Secretary considers appropriate to monitor and evaluate the distribution and expenditure of funds appropriated to carry out this section, and such information shall be furnished to the Secretary in such form as the Secretary determines appropriate.*

(c) *DEFINITION.—As used in this section, the term "homeless veteran" has the meaning given that term by section 3771(2) of this title.*

(d) *AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section amounts as follows:*

- (A) \$10,000,000 for fiscal year 2000.
- (B) \$15,000,000 for fiscal year 2001.
- (C) \$20,000,000 for fiscal year 2002.
- (D) \$25,000,000 for fiscal year 2003.
- (E) \$30,000,000 for fiscal year 2004.

(2) Funds obligated for any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

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§ 5317. Use of income information from other agencies: notice and verification

(a) * * *

* * * * *

[(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Secretary of Health and Human Services under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on September 30, 2002.]

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PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

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CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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SUBCHAPTER I—ORGANIZATION AND JURISDICTION

Sec. 7251.

Status. * * * * *

7257.

Recall of retired judges. * * * * *

* * * * *

SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

7299.

Limitation on activities of retired judges. * * * * *

* * * * *

SUBCHAPTER I—ORGANIZATION AND JURISDICTION

* * * * *

§ 7254. Organization

(a) * * *

* * * * *

(f) *The Court may prescribe rules and regulations to carry out this chapter.*

* * * * *

§ 7257. Recall of retired judges

(a)(1) *A retired judge of the Court may be recalled for further service on the Court in accordance with this section. To be eligible to be recalled for such service, a retired judge must at the time of the judge's retirement provide to the chief judge of the Court (or, in the case of the chief judge, to the clerk of the Court) notice in writing that the retired judge is available for further service on the Court in accordance with this section and is willing to be recalled under this section. Such a notice provided by a retired judge is irrevocable.*

(2) *For the purposes of this section—*

(A) *a retired judge is a judge of the Court of Veterans Appeals who retires from the Court under section 7296 of this title or under chapter 83 or 84 of title 5; and*

(B) *a recall-eligible retired judge is a retired judge who has provided a notice under paragraph (1).*

(b)(1) *The chief judge may recall for further service on the court a recall-eligible retired judge in accordance with this section. Such a recall shall be made upon written certification by the chief judge that substantial service is expected to be performed by the retired judge for such period, not to exceed 90 days (or the equivalent), as determined by the chief judge to be necessary to meet the needs of the Court.*

(2) *A recall-eligible retired judge may not be recalled for more than 90 days (or the equivalent) during any calendar year without the judge's consent or for more than a total of 180 days (or the equivalent) during any calendar year.*

(3) *If a recall-eligible retired judge is recalled by the chief judge in accordance with this section and (other than in the case of a judge who has previously during that calendar year served at least 90 days (or the equivalent) of recalled service on the court) declines (other than by reason of disability) to perform the service to which recalled, the chief judge shall remove that retired judge from the status of a recall-eligible judge.*

(4) *A recall-eligible retired judge who becomes permanently disabled and as a result of that disability is unable to perform further service on the court shall be removed from the status of a recall-eligible judge. Determination of such a disability shall be made in the same manner as is applicable to judges of the United States under section 371 of title 28.*

(c) *A retired judge who is recalled under this section may exercise all of the powers and duties of the office of a judge in active service.*

(d)(1) *The pay of a recall-eligible retired judge who retired under section 7296 of this title is specified in subsection (c) of that section.*

(2) *A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active serv-*

ice, less the amount of the judge's annuity under the applicable provisions of chapter 83 or 84 of title 5.

(e)(1) Except as provided in subsection (d), a judge who is recalled under this section who retired under chapter 83 or 84 of title 5 shall be considered to be a reemployed annuitant under that chapter.

(2) Nothing in this section affects the right of a judge who retired under chapter 83 or 84 of title 5 to serve as a reemployed annuitant in accordance with the provisions of title 5.

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SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

§ 7296. Retirement of judges

(a) * * *

* * * * *

(b) * * *

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(4) For purposes of calculating the years of service of an individual under this subsection and subsection (c), only those years of service as a judge of the Court shall be credited. In determining the number of years of such service, that portion of the aggregate number of years of such service that is a fractional part of one year shall be disregarded if less than 183 days and shall be credited as a full year if 183 days or more.

(c)(1) An individual who retires under subsection (b) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall (except as provided in paragraph (2) of this subsection) receive retired pay [at the rate of pay in effect at the time of retirement.] as follows:

(A) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title or who was a recall-eligible retired judge under that section and was removed from recall status under subsection (b)(4) of that section by reason of disability, the retired pay of the judge shall be the pay of a judge of the court (or of the chief judge, if the individual retired from service as chief judge).

(B) In the case of a judge who at the time of retirement did not provide notice under section 7257 of this title of availability for service in a recalled status, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.

(C) In the case of a judge who was a recall-eligible retired judge under section 7257 of this title and was removed from recall status under subsection (b)(3) of that section, the retired pay of the judge shall be the pay of the judge at the time of the removal from recall status.

* * * * *

(f)(1) * * *

* * * * *

(3)(A) A cost-of-living adjustment provided by law in annuities payable under civil service retirement laws shall apply to retired

pay under this section only in the case of retired pay computed under paragraph (2) of subsection (c).

(B)(i) *If such a cost-of-living adjustment would (but for this subparagraph) result in the retired pay of a retired chief judge being in excess of the annual rate of pay in effect for the chief judge of the court as provided in section 7253(e)(1) of this title, such adjustment may be made in the retired pay of that retired chief judge only in such amount as results in the retired pay of the retired chief judge being equal to that annual rate of pay (as in effect on the effective date of such adjustment).*

(ii) *If such a cost-of-living adjustment would (but for this subparagraph) result in the retired pay of a retired judge (other than a retired chief judge) being in excess of the annual rate of pay in effect for judges of the court as provided in section 7253(e)(2) of this title, such adjustment may be made only in such amount as results in the retired pay of the retired judge being equal to that annual rate of pay (as in effect on the effective date of such adjustment).*

(4) *Notwithstanding subsection (c) of section 5532 of title 5, if a regular or reserve member of a uniformed service who is receiving retired or retainer pay becomes a judge of the court, or becomes eligible therefor while a judge of the court, such retired or retainer pay shall not be paid during the judge's regular active service on the court, but shall be resumed or commenced without reduction upon retirement as a judge.*

* * * * *

§ 7297. Survivor annuities

(a) For purposes of this section:

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

(2) The term “judge” means the chief judge or an associate judge of the Court *who is in active service or who has retired under section 7296 of this title.*

(3) The term “pay” means salary received under section 7253(e) of this title and retired pay received under section **[7296(c)] 7296** of this title.

* * * * *

(5) The term “surviving spouse” means a surviving spouse of an individual who (A) was married to such individual for at least **[two years]** *one year* immediately preceding the individual's death, or (B) is a parent of issue by the marriage.

* * * * *

(8) *The term “assassination” as applied to a judge shall have the meaning provided that term in section 376(a)(7) of title 28 as applied to a judicial official.*

(b) A judge may become a participant in the annuity program under this section by filing a written election under this subsection while in office *or within six months after the date on which the judge marries if the judge has retired under section 7296 of this title.* Any such election shall be made in such manner as may be prescribed by the Court.

(c) There shall be deducted and withheld each pay period from the pay of a judge who has made an election under subsection (b) of this section a sum equal to **3.5 percent of the judge's pay** *that percentage of the judge's pay that is the same as provided for the deduction from the salary or retirement salary of a judge of the United States Court of Federal Claims for the purpose of a survivor annuity under section 376(b)(1)(B) of title 28.* Amounts so deducted and withheld shall be deposited in the retirement fund. A judge who makes an election under subsection (b) of this section shall be considered by that election to agree to the deductions from the judge's pay required by this subsection.

(d)(1) A judge who makes an election under subsection (b) of this section shall deposit, with interest at 3 percent per year compounded on December 31 of each year, to the credit of the retirement fund, an amount equal to 3.5 percent of the judge's pay and of the judge's basic salary, pay, or compensation for service as a Member of Congress, and for any other civilian service within the purview of section 8332 of title 5. Each such judge may elect to make such deposits in installments during the judge's period of service in such amount and under such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annual annuity of the surviving spouse of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless the surviving spouse elects to eliminate such service entirely from credit under subsection (k) of this section. However, a deposit shall not be required from a judge for any year with respect to which deductions from the judge's pay, or a deposit, were actually made (and not withdrawn) under the civil service retirement laws.

(2) *The interest required under the first sentence of paragraph (1) shall not be required for any period—*

(A) *during which a judge was separated from any service described in section 376(d)(2) of title 28; and*

(B) *during which the judge was not receiving retired pay based on service as a judge or receiving any retirement salary as described in section 376(d)(1) of title 28.*

* * * * *

(f)(1) If a judge who makes an election under subsection (b) of this section dies after having rendered at least **5 years** *18 months* of civilian service (computed as prescribed in subsection (l) of this section), for the last **5 years** *18 months* of which the salary deductions provided for by subsection (c) of this section or the deposits required by subsection (d) of this section have actually been made (and not withdrawn) or the salary deductions required by the civil service retirement laws have actually been made (and not withdrawn)—

(A) if the judge is survived by a surviving spouse but not by a dependent child, there shall be paid to the surviving spouse an annuity beginning with the day of the death of the judge **or following the surviving spouse's attainment of the age of 50**

years, whichever is the later], in an amount computed as provided in subsection (k) of this section; or

* * * * *

(5) *If a judge dies as a result of an assassination and leaves a survivor or survivors who are otherwise entitled to receive annuity payments under this section, the 18-month requirement in the matter in paragraph (1) preceding subparagraph (A) shall not apply.*

* * * * *

§ 7298. Retirement Fund

(a) * * *

* * * * *

(e)(1) * * *

(2)(A) Subject to the availability of appropriations, there shall be deposited in the Treasury to the credit of the retirement fund, not later than the close of each fiscal year, such amounts as may be required to reduced to zero the unfunded liability (if any) of the fund. Such deposits shall be taken from sums available for that fiscal year for the payment of the expenses of the Court.

* * * * *

(C) *For purposes of subparagraph (B), the term “present value” includes a value determined by an actuary with respect to a payment that may be made under subsection (b) from the retirement fund within the contemplation of law.*

[(C)] (D) Amounts deposited in the retirement fund under this paragraph shall not be credited to the account of any individual.

* * * * *

§ 7299. Limitation on activities of retired judges

(a) *A retired judge of the Court who is recall-eligible under section 7257 of this title and who in the practice of law represents (or supervises or directs the representation of) a client in making any claim relating to veterans’ benefits against the United States or any agency thereof shall, pursuant to such section, be considered to have declined recall service and be removed from the status of a recall-eligible judge. The pay of such a judge, pursuant to section 7296 of this title, shall be the pay of the judge at the time of the removal from recall status.*

(b) *A recall-eligible judge shall be considered to be an officer or employee of the United States, but only during periods when the judge is serving in recall status. Any prohibition, limitation, or restriction that would otherwise apply to the activities of a recall-eligible judge shall apply only during periods when the judge is serving in recall status.*

* * * * *

CHAPTER 77—VETERANS BENEFITS ADMINISTRATION

SUBCHAPTER I—ORGANIZATION; GENERAL

Sec.
7701. Organization of the Administration.

* * * * *

SUBCHAPTER III—QUALITY ASSURANCE

7731. Establishment.
7732. Functions.
7733. Personnel.
7734. Annual report to Congress.

* * * * *

SUBCHAPTER III—QUALITY ASSURANCE

§ 7731. Establishment

(a) *The Secretary shall carry out a quality assurance program in the Veterans Benefits Administration. The program may be carried out through a single quality assurance division in the Administration or through separate quality assurance entities for each of the principal organizational elements (known as “services”) of the Administration.*

(b) *The Secretary shall ensure that any quality assurance entity established and operated under subsection (a) is established and operated so as to meet generally applicable governmental standards for independence and internal controls for the performance of quality reviews of Government performance and results.*

§ 7732. Functions

The Under Secretary for Benefits, acting through the quality assurance entities established under section 7731(a), shall on an ongoing basis perform and oversee quality reviews of the functions of each of the principal organizational elements of the Veterans Benefits Administration.

§ 7733. Personnel

The Secretary shall ensure that the number of full-time employees of the Veterans Benefits Administration assigned to quality assurance functions under this subchapter is adequate to perform the quality assurance functions for which they have responsibility.

§ 7734. Annual report to Congress

The Secretary shall include in the annual report to the Congress required by section 529 of this title a report on the quality assurance activities carried out under this subchapter. Each such report shall include—

- (1) *an appraisal of the quality of services provided by the Veterans Benefits Administration, including—*
 - (A) *the number of decisions reviewed;*
 - (B) *a summary of the findings on the decisions reviewed;*
 - (C) *the number of full-time equivalent employees assigned to quality assurance in each division or entity;*

- (D) specific documentation of compliance with the standards for independence and internal control required by section 7731(b) of this title; and
- (E) actions taken to improve the quality of services provided and the results obtained;
- (2) information with respect to the accuracy of decisions, including trends in that information; and
- (3) such other information as the Secretary considers appropriate.

* * * * *

TITLE 36 UNITED STATES CODE

* * * * *

SUBTITLE I—PATRIOTIC AND NATIONAL OBSERVANCES AND CEREMONIES

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PART B—UNITED STATES GOVERNMENT ORGANIZATIONS INVOLVED WITH OBSERVANCES AND CEREMONIES

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CHAPTER 21—AMERICAN BATTLE MONUMENTS COMMISSION

Sec.
2101. Membership.

* * * * *

2113. *World War II memorial in the District of Columbia.*
2114. *Intellectual property and related items.*

§ 2101. Membership

(a) * * *

(b) **PAY AND EXPENSES.**—The members of the Commission serve without compensation. However, the members of the Commission may receive, from an amount appropriated to carry out this chapter or acquired by another authorized way—

(1) * * *

(2) when in a travel status outside the continental United States, a per diem at the rate authorized to be paid for members of the uniformed services under section 405 of title 37[, United States Code,] instead of subsistence; and

(3) when in a travel status in the continental United States, a per diem at the rate authorized to be paid under sections 5702 and 5703 of title 5[, United States Code,] instead of subsistence.

* * * * *

§ 2102. Employment of personnel

(a) GENERAL.—Within the limits of an appropriation made to employ personnel, the American Battle Monuments Commission may employ personnel necessary to carry out this chapter. To ensure adequate care and maintenance of cemeteries, monuments, and memorials, the Commission, subject to the availability of appropriations, shall employ—

- (1) at least 50 individuals in the competitive service (as defined in section 2102 of title 5 [United States Code]), of whom at least 43 shall be assigned to duty in foreign countries where the cemeteries, monuments, and memorials are located; and

* * * * *

§ 2103. Administrative

(a) * * *

* * * * *

(d) DELEGATION.—Under conditions the Commission may prescribe, the Commission may delegate to its [chairman] *Chairman*, secretary, or officials in charge of any of its offices any of its authority it considers necessary and proper.

[(e) AUTHORITY TO RECEIVE STATE, LOCAL, OR PRIVATE AMOUNTS.—The Commission may receive State, local, or private amounts to carry out this chapter. The Commission shall deposit the amounts with the Treasurer of the United States. The Treasurer shall keep the amounts in separate accounts and shall disburse the amounts on vouchers approved by the chairman.]

(e) SOLICITATION AND RECEIPT OF CONTRIBUTIONS.—(1) *The Commission may solicit and receive funds and in-kind donations and gifts from any State, municipal, or private source to carry out the purposes of this chapter. The Commission shall deposit such funds in a separate account in the Treasury. Funds from that account shall be disbursed upon vouchers approved by the Chairman.*

(2) *The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds and in-kind donations and gifts under paragraph (1) would—*

(A) *reflect unfavorably on the ability of the Commission, or any member or employee of the Commission, to carry out the responsibilities or official duties of the Commission in a fair and objective manner; or*

(B) *compromise the integrity or the appearance of the integrity of the programs of the Commission or any official involved in those programs.*

* * * * *

(h) FINANCIAL STATEMENTS AND AUDITS.—(1) The Commission shall have a system of financial controls to enable the Commission to comply with the requirements of paragraph (2) of this subsection and with section 2106(d)(4) of this title.

(2) The Commission shall—

(A) by March 1 of each year (beginning with 1998)—

- (i) prepare a financial statement which covers all accounts and associated activities of the Commission for the

prior fiscal year and is consistent with the requirements of section 3515 of title 31[, United States Code]; and

* * * * *

(i) DISPOSITION OF RECORDS AND ARCHIVES.—When no longer required by the Commission, the records and archives of the Commission shall be deposited with the National Archives in accordance with section 2107 of title 44[, United States Code].

* * * * *

§2113. World War II memorial in the District of Columbia

(a) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS.—Consistent with its authority under section 2103(e) of this title, the American Battle Monuments Commission shall solicit and accept contributions for the memorial authorized by Public Law 103-32 (40 U.S.C. 1003 note) to be established by the Commission on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war (hereinafter in this section referred to as the ‘World War II memorial’).

(b) CREATION OF MEMORIAL FUND.—(1) There is hereby created in the Treasury a fund for the World War II memorial. The fund shall consist of the following:

(A) Amounts deposited, and interest and proceeds credited, under paragraph (2).

(B) Obligations obtained under paragraph (3).

(C) The amount of surcharges paid to the Commission for the World War II memorial under the World War II 50th Anniversary Commemorative Coins Act (31 U.S.C. 5112 note).

(D) Amounts borrowed using the authority provided under subsection (d).

(E) Any funds received by the Commission under section 2114 of this title in exchange for use of, or the right to use, any mark, copyright or patent.

(2) The Chairman of the Commission shall deposit in the fund the amounts accepted as contributions under subsection (a). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(3) The Secretary shall invest any portion of the fund that, as determined by the Chairman, is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that the Chairman determines has a maturity suitable for the fund.

(c) USE OF FUND.—The fund shall be available to the Commission—

(1) for the expenses of establishing the World War II memorial, including the maintenance and preservation amount provided for in section 8(b) of the Commemorative Works Act (40 U.S.C. 1008(b));

(2) for such other expenses, other than routine maintenance, with respect to the World War II memorial as the Commission considers warranted; and

(3) to secure, obtain, register, enforce, protect, and license any mark, copyright or patent that is owned by, assigned to, or licensed to the Commission under section 2114 of this title to aid or facilitate the construction of the World War II memorial.

(d) SPECIAL BORROWING AUTHORITY.—(1) To assure that groundbreaking, construction, and dedication of the World War II memorial are carried out on a timely basis, the Commission may borrow money from the Treasury of the United States in such amounts as the Commission considers necessary, but not to exceed a total of \$65,000,000. Borrowed amounts shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the month in which the obligations of the Commission are issued. The interest payments on such obligations may be deferred with the approval of the Secretary, but any interest payment so deferred shall also bear interest.

(2) The borrowing of money by the Commission under paragraph (1) shall be subject to such maturities, terms, and conditions as may be agreed upon by the Commission and the Secretary, except that the maturities may not exceed 20 years and such borrowings may be redeemable at the option of the Commission before maturity.

(3) The obligations of the Commission shall be issued in amounts and at prices approved by the Secretary. The authority of the Commission to issue obligations under this subsection shall remain available without fiscal year limitation. The Secretary of the Treasury shall purchase any obligations of the Commission to be issued under this subsection, and for such purpose the Secretary of the Treasury may use as a public debt transaction of the United States the proceeds from the sale of any securities issued under chapter 31 of title 31. The purposes for which securities may be issued under such chapter are extended to include any purchase of the Commission's obligations under this subsection.

(4) Repayment of the interest and principal on any funds borrowed by the Commission under paragraph (1) shall be made from amounts in the fund. The Commission may not use for such purpose any funds appropriated for any other activities of the Commission.

(e) TREATMENT OF BORROWING AUTHORITY.—In determining whether the Commission has sufficient funds to complete construction of the World War II memorial, as required by section 8 of the Commemorative Works Act (40 U.S.C. 1008), the Secretary of the Interior shall consider the funds that the Commission may borrow from the Treasury under subsection (d) as funds available to complete construction of the memorial, whether or not the Commission has actually exercised the authority to borrow such funds.

(f) VOLUNTARY SERVICES.—(1) Notwithstanding section 1342 of title 31, the Commission may accept from any person voluntary services to be provided in furtherance of the fund-raising activities of the Commission relating to the World War II memorial.

(2) A person providing voluntary services under this subsection shall be considered to be a Federal employee for purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and chapter 171 of title 28, relating to tort claims. A volunteer who is not otherwise employed by the United States shall not be considered

to be a Federal employee for any other purpose by reason of the provision of such voluntary service, except that any volunteers given responsibility for the handling of funds or the carrying out of a Federal function are subject to the conflict of interest laws contained in chapter 11 of title 18 and the administrative standards of conduct contained in part 2635 of title 5 of the Code of Federal Regulations.

(3) The Commission may provide for reimbursement of incidental expenses that are incurred by a person providing voluntary services under this subsection. The Commission shall determine those expenses that are eligible for reimbursement under this paragraph.

(4) Nothing in this subsection shall be construed to require any Federal employee to work without compensation or to allow the use of volunteer services to displace or replace any Federal employee.

(g) TREATMENT OF CERTAIN CONTRACTS.—A contract entered into by the Commission for the design or construction of the World War II memorial is not a funding agreement as that term is defined in section 201 of title 35.

(h) EXTENSION OF AUTHORITY TO ESTABLISH MEMORIAL.—Notwithstanding section 10 of the Commemorative Works Act (40 U.S.C. 1010), the authority for the construction of the World War II memorial provided by Public Law 103–32 (40 U.S.C. 1003 note) expires on December 31, 2005.

§2114. Intellectual property and related items

(a) AUTHORITY TO USE AND REGISTER INTELLECTUAL PROPERTY.—The American Battle Monuments Commission may—

(1) adopt, use, register, and license trademarks, service marks, and other marks;

(2) obtain, use, register, and license the use of copyrights consistent with section 105 of title 17;

(3) obtain, use, and license patents; and

(4) accept gifts of marks, copyrights, patents and licenses for use by the Commission.

(b) AUTHORITY TO GRANT LICENSES.—The Commission may grant exclusive and nonexclusive licenses in connection with any mark, copyright, patent, or license for the use of such mark, copyright or patent, except to the extent the grant of such license by the Commission would be contrary to any contract or license by which the use of the mark, copyright, or patent was obtained.

(c) ENFORCEMENT AUTHORITY.—The Commission may enforce any mark, copyright, or patent by an action in the district courts under any law providing for the protection of such marks, copyrights, or patents.

(d) LEGAL REPRESENTATION.—The Attorney General shall furnish the Commission with legal representation as the Commission may require under subsection (c). The Secretary of Defense shall provide representation for the Commission in administrative proceedings before the Patent and Trademark Office and Copyright Office.

(e) IRREVOCABILITY OF TRANSFERS OF COPYRIGHTS TO COMMISSION.—Section 203 of title 17 shall not apply to any copyright transferred in any manner to the Commission.

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ACT OF MAY 25, 1993**WORLD WAR II MEMORIAL AUTHORIZATION**

AN ACT To authorize the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

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[SEC. 3. PRIVATE CONTRIBUTIONS.

]The American Battle Monuments Commission shall solicit and accept private contributions for the memorial.

[SEC. 4. FUND IN THE TREASURY FOR THE MEMORIAL.

](a) **IN GENERAL.**—There is hereby created in the Treasury a fund which shall be available to the American Battle Monuments Commission for the expenses of establishing the memorial. The fund shall consist of—

[(1) amounts deposited, and interest and proceeds credited, under subsection (b);

[(2) obligations obtained under subsection (c); and

[(3) the amount of surcharges paid to the Commission for the memorial under the World War II 50th Anniversary Commemorative Coins Act.

[(b) **DEPOSITS AND CREDITS.**—The Chairman of the Commission shall deposit in the fund the amounts accepted as contributions under section 3. The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

[(c) **OBLIGATIONS.**—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

[(d) **ABOLITION.**—Upon the final settlement of the accounts of the fund, the Secretary of the Treasury shall submit to the Congress a draft of legislation (including technical and conforming provisions) recommended by the Secretary for the abolition of the fund.

[SEC. 5. DEPOSIT OF EXCESS FUNDS.

]If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance in the fund created by section 4, the Chairman of the American Battle Monuments Commission shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.]