

# ***In the House of Representatives, U. S.,***

*November 15 (legislative day, November 14), 2002.*

*Resolved*, That the bill from the Senate (S. 2237) entitled “An Act to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes”, do pass with the following

## **AMENDMENTS:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2       (a) *SHORT TITLE.*—*This Act may be cited as the “Vet-*  
3 *erans Benefits Act of 2002”.*

4       (b) *TABLE OF CONTENTS.*—*The table of contents for*  
5 *this Act is as follows:*

*Sec. 1. Short title; table of contents.*

*Sec. 2. References to title 38, United States Code.*

### ***TITLE I—COMPENSATION AND BENEFITS IMPROVEMENTS***

*Sec. 101. Retention of CHAMPVA for surviving spouses remarrying after age 55.*

*Sec. 102. Clarification of entitlement to special monthly compensation for women veterans who have service-connected loss of breast tissue.*

*Sec. 103. Specification of hearing loss required for compensation for hearing loss in paired organs.*

*Sec. 104. Assessment of acoustic trauma associated with military service from World War II to present.*

## TITLE II—MEMORIAL AFFAIRS

- Sec. 201. Prohibition on certain additional benefits for persons committing capital crimes.*
- Sec. 202. Procedures for disqualification of persons committing capital crimes for interment or memorialization in national cemeteries.*
- Sec. 203. Application of Department of Veterans Affairs benefit for Government markers for marked graves of veterans at private cemeteries to veterans dying on or after September 11, 2001.*
- Sec. 204. Authorization of placement of a memorial in Arlington National Cemetery honoring World War II veterans who fought in the Battle of the Bulge.*

## TITLE III—OTHER MATTERS

- Sec. 301. Increase in aggregate annual amount available for State approving agencies for administrative expenses for fiscal years 2003 through 2007.*
- Sec. 302. Authority for Veterans' Mortgage Life Insurance to be carried beyond age 70.*
- Sec. 303. Authority to guarantee hybrid adjustable rate mortgages.*
- Sec. 304. Increase in amount payable as Medal of Honor special pension.*
- Sec. 305. Extension of protections under the Soldiers' and Sailors' Civil Relief Act of 1940 to National Guard members called to active duty under title 32, United States Code.*
- Sec. 306. Extension of income verification authority.*
- Sec. 307. Fee for loan assumption.*
- Sec. 308. Technical and clarifying amendments.*
- Sec. 309. Codification of cost-of-living adjustment provided in Public Law 107–247.*

## TITLE IV—JUDICIAL MATTERS

- Sec. 401. Standard for reversal by Court of Appeals for Veterans Claims of erroneous finding of fact by Board of Veterans' Appeals.*
- Sec. 402. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.*
- Sec. 403. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.*

1 **SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

- 2       *Except as otherwise expressly provided, whenever in*
- 3 *this Act an amendment or repeal is expressed in terms of*
- 4 *an amendment to, or repeal of, a section or other provision,*
- 5 *the reference shall be considered to be made to a section or*
- 6 *other provision of title 38, United States Code.*

1     ***TITLE I—COMPENSATION AND***  
 2     ***BENEFITS IMPROVEMENTS***

3     ***SEC. 101. RETENTION OF CHAMPVA FOR SURVIVING***  
 4     ***SPOUSES REMARRYING AFTER AGE 55.***

5     *(a) EXCEPTION TO TERMINATION OF BENEFITS UPON*  
 6     *REMARRIAGE.—Paragraph (2) of section 103(d) is*  
 7     *amended—*

8             *(1) by inserting “(A) after “(2)”;* and

9             *(2) by adding at the end the following:*

10            *“(B) The remarriage after age 55 of the surviving*  
 11     *spouse of a veteran shall not bar the furnishing of benefits*  
 12     *under section 1781 of this title to such person as the sur-*  
 13     *living spouse of the veteran.”.*

14            *(b) APPLICATION FOR BENEFITS.—In the case of an*  
 15     *individual who but for having remarried would be eligible*  
 16     *for medical care under section 1781 of title 38, United*  
 17     *States Code, and whose remarriage was before the date of*  
 18     *the enactment of this Act and after the individual had at-*  
 19     *tained age 55, the individual shall be eligible for such med-*  
 20     *ical care by reason of the amendments made by subsection*  
 21     *(a) only if an application for such medical care is received*  
 22     *by the Secretary of Veterans Affairs during the one-year*  
 23     *period ending on the effective date specified in subsection*  
 24     *(c).*

1       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall take effect on the date that is 60 days after*  
 3 *the date of the enactment of this Act.*

4 **SEC. 102. CLARIFICATION OF ENTITLEMENT TO SPECIAL**  
 5 **MONTHLY COMPENSATION FOR WOMEN VET-**  
 6 **ERANS WHO HAVE SERVICE-CONNECTED**  
 7 **LOSS OF BREAST TISSUE.**

8       *Section 1114(k) is amended by striking “one or both*  
 9 *breasts (including loss by mastectomy)” and inserting “25*  
 10 *percent or more of tissue from a single breast or both breasts*  
 11 *in combination (including loss by mastectomy or partial*  
 12 *mastectomy) or has received radiation treatment of breast*  
 13 *tissue”.*

14 **SEC. 103. SPECIFICATION OF HEARING LOSS REQUIRED**  
 15 **FOR COMPENSATION FOR HEARING LOSS IN**  
 16 **PAIRED ORGANS.**

17       *Section 1160(a)(3) is amended—*

18               (1) *by striking “total deafness” the first place it*  
 19 *appears and inserting “deafness compensable to a de-*  
 20 *gree of 10 percent or more”; and*

21               (2) *by striking “total deafness” the second place*  
 22 *it appears and inserting “deafness”.*

1 **SEC. 104. ASSESSMENT OF ACOUSTIC TRAUMA ASSOCIATED**  
2 **WITH MILITARY SERVICE FROM WORLD WAR**  
3 **II TO PRESENT.**

4 (a) *ASSESSMENT BY NATIONAL ACADEMY OF*  
5 *SCIENCES.*—*The Secretary of Veterans Affairs shall seek to*  
6 *enter into an agreement with the National Academy of*  
7 *Sciences for the Academy to perform the activities specified*  
8 *in this section. The Secretary shall seek to enter into the*  
9 *agreement not later than 60 days after the date of the enact-*  
10 *ment of this Act.*

11 (b) *DUTIES UNDER AGREEMENT.*—*Under the agree-*  
12 *ment under subsection (a), the National Academy of*  
13 *Sciences shall do the following:*

14 (1) *Review and assess available data on hearing*  
15 *loss that could reasonably be expected to have been in-*  
16 *curring by members of the Armed Forces during the*  
17 *period from the beginning of World War II to the*  
18 *date of the enactment of this Act.*

19 (2) *Identify the different sources of acoustic trau-*  
20 *ma that members of the Armed Forces could reason-*  
21 *ably be expected to have been exposed to during the*  
22 *period from the beginning of World War II to the*  
23 *date of the enactment of this Act*

24 (3) *Determine how much exposure to each source*  
25 *of acoustic trauma identified under paragraph (2) is*  
26 *required to cause or contribute to hearing loss, hear-*

1        *ing threshold shift, or tinnitus, as the case may be,*  
2        *and at what noise level.*

3            *(4) Determine whether or not such hearing loss,*  
4        *hearing threshold shift, or tinnitus, as the case may*  
5        *be, is—*

6            *(A) immediate or delayed onset;*

7            *(B) cumulative;*

8            *(C) progressive; or*

9            *(D) any combination of subparagraph (A),*  
10        *(B), and (C).*

11        *(5) Identify age, occupational history, and other*  
12        *factors which contribute to an individual's noise-in-*  
13        *duced hearing loss.*

14        *(6) Identify—*

15            *(A) the period of time at which audiometric*  
16        *measures used by the Armed Forces became ade-*  
17        *quate to evaluate individual hearing threshold*  
18        *shift; and*

19            *(B) the period of time at which hearing*  
20        *conservation measures to prevent individual*  
21        *hearing threshold shift were available to members*  
22        *of the Armed Forces, shown separately for each*  
23        *of the Army, Navy, Air Force, Marine Corps,*  
24        *and Coast Guard, and, for each such service,*  
25        *shown separately for members exposed to dif-*

1           ferent sources of acoustic trauma identified  
2           under paragraph (2).

3           (c) *REPORT.*—Not later than 180 days after the date  
4 of the entry into the agreement referred to in subsection (a),  
5 the National Academy of Sciences shall submit to the Sec-  
6 retary a report on the activities of the National Academy  
7 of Sciences under the agreement, including the results of  
8 the activities required by subsection (b).

9           (d) *REPORT ON ADMINISTRATION OF BENEFITS FOR*  
10 *HEARING LOSS AND TINNITUS.*—(1) Not later than 180  
11 days after the date of the enactment of this Act, the Sec-  
12 retary of Veterans Affairs shall submit to the Committees  
13 on Veterans' Affairs of the Senate and the House of Rep-  
14 resentatives a report on the claims submitted to the Sec-  
15 retary for disability compensation or health care for hear-  
16 ing loss or tinnitus.

17           (2) The report under paragraph (1) shall include the  
18 following:

19           (A) The number of decisions issued by the Sec-  
20 retary in each of fiscal years 2000, 2001, and 2002  
21 on claims for disability compensation for hearing  
22 loss, tinnitus, or both.

23           (B) Of the decisions referred to in subparagraph

24           (A)—

1           (i) the number in which compensation was  
2           awarded, and the number in which compensa-  
3           tion was denied, set forth by fiscal year; and

4           (ii) the total amount of disability com-  
5           pensation paid on such claims during each such  
6           fiscal year.

7           (C) The total cost to the Department of Veterans  
8           Affairs of adjudicating the claims referred to in sub-  
9           paragraph (A), set forth in terms of full-time em-  
10          ployee equivalents (FTEEs).

11          (D) The total number of veterans who sought  
12          treatment in Department of Veterans Affairs health  
13          care facilities during fiscal years specified in sub-  
14          paragraph (A) for hearing-related disorders, set forth  
15          by the number of veterans per year.

16          (E) The health care furnished to veterans re-  
17          ferred to in subparagraph (D) for hearing-related dis-  
18          orders, including the number of veterans furnished  
19          hearing aids and the cost of furnishing such hearing  
20          aids.

1     ***TITLE II—MEMORIAL AFFAIRS***

2     ***SEC. 201. PROHIBITION ON CERTAIN ADDITIONAL BENE-***  
 3                   ***FITS FOR PERSONS COMMITTING CAPITAL***  
 4                   ***CRIMES.***

5           *(a) PRESIDENTIAL MEMORIAL CERTIFICATE.—Section*  
 6     *112 is amended by adding at the end the following new*  
 7     *subsection:*

8           *“(c) A certificate may not be furnished under the pro-*  
 9     *gram under subsection (a) on behalf of a deceased person*  
 10    *described in section 2411(b) of this title.”.*

11          *(b) FLAG TO DRAPE CASKET.—Section 2301 is*  
 12    *amended—*

13           *(1) by redesignating subsection (g) as subsection*  
 14    *(h); and*

15           *(2) by inserting after subsection (f) the following*  
 16    *new subsection (g):*

17           *“(g) A flag may not be furnished under this section*  
 18    *in the case of a person described in section 2411(b) of this*  
 19    *title.”.*

20          *(c) HEADSTONE OR MARKER FOR GRAVE.—Section*  
 21    *2306 is amended by adding at the end the following new*  
 22    *subsection:*

23           *“(g)(1) A headstone or marker may not be furnished*  
 24    *under subsection (a) for the unmarked grave of a person*  
 25    *described in section 2411(b) of this title.*

1       “(2) *A memorial headstone or marker may not be fur-*  
 2 *nished under subsection (b) for the purpose of commemo-*  
 3 *rating a person described in section 2411(b) of this title.*

4       “(3) *A marker may not be furnished under subsection*  
 5 *(d) for the grave of a person described in section 2411(b)*  
 6 *of this title.”.*

7       (d) *EFFECTIVE DATE.*—*The amendments made by this*  
 8 *section shall apply with respect to deaths occurring on or*  
 9 *after the date of the enactment of this Act.*

10 **SEC. 202. PROCEDURES FOR DISQUALIFICATION OF PER-**  
 11 **SONS COMMITTING CAPITAL CRIMES FOR IN-**  
 12 **TERMENT OR MEMORIALIZATION IN NA-**  
 13 **TIONAL CEMETERIES.**

14       Section 2411(a)(2) is amended—

15               (1) by striking “*The prohibition*” and inserting  
 16               “*In the case of a person described in subsection (b)(1)*  
 17               *or (b)(2), the prohibition*”; and

18               (2) by striking “*or finding under subsection (b)*”  
 19               and inserting “*referred to in subsection (b)(1) or*  
 20               *(b)(2), as the case may be,*”.

1 **SEC. 203. APPLICATION OF DEPARTMENT OF VETERANS AF-**  
 2 **FAIRS BENEFIT FOR GOVERNMENT MARKERS**  
 3 **FOR MARKED GRAVES OF VETERANS AT PRI-**  
 4 **VATE CEMETERIES TO VETERANS DYING ON**  
 5 **OR AFTER SEPTEMBER 11, 2001.**

6 (a) *IN GENERAL.*—Subsection (d) of section 502 of the  
 7 *Veterans Education and Benefits Expansion Act of 2001*  
 8 *(Public Law 107–103; 115 Stat. 995; 38 U.S.C. 2306 note)*  
 9 *is amended by striking “the date of the enactment of this*  
 10 *Act” and inserting “September 11, 2001”.*

11 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
 12 *section (a) shall take effect as if included in the enactment*  
 13 *of such section 502.*

14 **SEC. 204. AUTHORIZATION OF PLACEMENT OF A MEMORIAL**  
 15 **IN ARLINGTON NATIONAL CEMETERY HON-**  
 16 **ORING WORLD WAR II VETERANS WHO**  
 17 **FOUGHT IN THE BATTLE OF THE BULGE.**

18 *The Secretary of the Army is authorized to place in*  
 19 *Arlington National Cemetery a memorial marker honoring*  
 20 *veterans who fought in the battle in the European theater*  
 21 *of operations during World War II known as the Battle*  
 22 *of the Bulge.*

1       ***TITLE III—OTHER MATTERS***

2       ***SEC. 301. INCREASE IN AGGREGATE ANNUAL AMOUNT***  
3                   ***AVAILABLE FOR STATE APPROVING AGEN-***  
4                   ***CIES FOR ADMINISTRATIVE EXPENSES FOR***  
5                   ***FISCAL YEARS 2003 THROUGH 2007.***

6       *The first sentence of section 3674(a)(4) is amended by*  
7       *inserting before the period at the end the following: “, for*  
8       *fiscal year 2003, \$14,000,000, for fiscal year 2004,*  
9       *\$18,000,000, for fiscal year 2005, \$18,000,000, for fiscal*  
10       *year 2006, \$19,000,000, and for fiscal year 2007,*  
11       *\$19,000,000”.*

12       ***SEC. 302. AUTHORITY FOR VETERANS’ MORTGAGE LIFE IN-***  
13                   ***SURANCE TO BE CARRIED BEYOND AGE 70.***

14       *Section 2106 is amended—*

15               *(1) in subsection (a), by inserting “age 69 or*  
16       *younger” after “any eligible veteran”; and*

17               *(2) in subsection (i), by striking paragraph (2)*  
18       *and redesignating paragraphs (3) and (4) as para-*  
19       *graphs (2) and (3), respectively.*

20       ***SEC. 303. AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE***  
21                   ***RATE MORTGAGES.***

22       *(a) TWO-YEAR DEMONSTRATION PROJECT TO GUAR-*  
23       ***ANTEE CERTAIN ADJUSTABLE RATE MORTGAGES.—****Chap-*  
24       *ter 37 is amended by inserting after section 3707 the fol-*  
25       *lowing new section:*

1 **“§ 3707A. Hybrid adjustable rate mortgages**

2       “(a) The Secretary shall carry out a demonstration  
3 project under this section during fiscal years 2004 and 2005  
4 for the purpose of guaranteeing loans in a manner similar  
5 to the manner in which the Secretary of Housing and  
6 Urban Development insures adjustable rate mortgages  
7 under section 251 of the National Housing Act in accord-  
8 ance with the provisions of this section with respect to hy-  
9 brid adjustable rate mortgages described in subsection (b).

10       “(b) Adjustable rate mortgages that are guaranteed  
11 under this section shall be adjustable rate mortgages (com-  
12 monly referred to as ‘hybrid adjustable rate mortgages’)  
13 having interest rate adjustment provisions that—

14               “(1) specify an initial rate of interest that is  
15 fixed for a period of not less than the first three years  
16 of the mortgage term;

17               “(2) provide for an initial adjustment in the  
18 rate of interest by the mortgagee at the end of the pe-  
19 riod described in paragraph (1); and

20               “(3) comply in such initial adjustment, and any  
21 subsequent adjustment, with subsection (c).

22       “(c) Interest rate adjustment provisions of a mortgage  
23 guaranteed under this section shall—

24               “(1) correspond to a specified national interest  
25 rate index approved by the Secretary, information on

1       *which is readily accessible to mortgagors from gen-*  
2       *erally available published sources;*

3               “(2) *be made by adjusting the monthly payment*  
4       *on an annual basis;*

5               “(3) *be limited, with respect to any single an-*  
6       *nual interest rate adjustment, to a maximum increase*  
7       *or decrease of 1 percentage point; and*

8               “(4) *be limited, over the term of the mortgage, to*  
9       *a maximum increase of 5 percentage points above the*  
10       *initial contract interest rate.*

11       “(d) *The Secretary shall promulgate underwriting*  
12       *standards for loans guaranteed under this section, taking*  
13       *into account—*

14               “(1) *the status of the interest rate index referred*  
15       *to in subsection (c)(1) and available at the time an*  
16       *underwriting decision is made, regardless of the ac-*  
17       *tual initial rate offered by the lender;*

18               “(2) *the maximum and likely amounts of in-*  
19       *creases in mortgage payments that the loans would*  
20       *require;*

21               “(3) *the underwriting standards applicable to*  
22       *adjustable rate mortgages insured under title II of the*  
23       *National Housing Act; and*

24               “(4) *such other factors as the Secretary finds ap-*  
25       *propriate.*

1       “(e) *The Secretary shall require that the mortgagee*  
 2 *make available to the mortgagor, at the time of loan appli-*  
 3 *cation, a written explanation of the features of the adjust-*  
 4 *able rate mortgage, including a hypothetical payment*  
 5 *schedule that displays the maximum potential increases in*  
 6 *monthly payments to the mortgagor over the first five years*  
 7 *of the mortgage term.”.*

8       (b) *CLERICAL AMENDMENT.—The table of sections at*  
 9 *the beginning of chapter 37 is amended by inserting after*  
 10 *the item relating to section 3707 the following new item:*  
       *“3707A. Hybrid adjustable rate mortgages.”.*

11 **SEC. 304. INCREASE IN AMOUNT PAYABLE AS MEDAL OF**  
 12 **HONOR SPECIAL PENSION.**

13       (a) *INCREASE IN AMOUNT.—Subsection (a) of section*  
 14 *1562 is amended by striking “\$600” and inserting “\$1,000,*  
 15 *as adjusted from time to time under subsection (e)”.*

16       (b) *ANNUAL ADJUSTMENT.—That section is further*  
 17 *amended by adding at the end the following new subsection:*

18       “(e) *Effective as of December 1 each year, the Secretary*  
 19 *shall increase the amount of monthly special pension pay-*  
 20 *able under subsection (a) as of November 30 of such year*  
 21 *by the same percentage as the percentage by which benefit*  
 22 *amounts payable under title II of the Social Security Act*  
 23 *(42 U.S.C. 401 et seq.) are increased effective December 1*  
 24 *of such year as a result of a determination under section*  
 25 *215(i) of that Act (42 U.S.C. 415(i)).”.*

1       (c) *PAYMENT OF LUMP SUM FOR PERIOD BETWEEN*  
 2 *ACT OF VALOR AND COMMENCEMENT OF SPECIAL PEN-*  
 3 *SION.*—*That section is further amended by adding after*  
 4 *subsection (e), as added by subsection (b) of this section,*  
 5 *the following new subsection:*

6       “(f)(1) *The Secretary shall pay, in a lump sum, to*  
 7 *each person who is in receipt of special pension payable*  
 8 *under this section an amount equal to the total amount of*  
 9 *special pension that the person would have received during*  
 10 *the period beginning on the first day of the first month be-*  
 11 *ginning after the date of the act for which the person was*  
 12 *awarded the Medal of Honor and ending on the last day*  
 13 *of the month preceding the month in which the person’s spe-*  
 14 *cial pension in fact commenced.*

15       “(2) *For each month of a period referred to in para-*  
 16 *graph (1), the amount of special pension payable to a per-*  
 17 *son shall be determined using the rate of special pension*  
 18 *that was in effect for such month, and shall be payable only*  
 19 *if the person would have been entitled to payment of special*  
 20 *pension for such month under laws for eligibility for special*  
 21 *pension (with the exception of the eligibility law requiring*  
 22 *a person to have been awarded a Medal of Honor) in effect*  
 23 *at the beginning of such month.”.*

24       (d) *EFFECTIVE DATE.*—(1) *Except as provided in*  
 25 *paragraph (2), the amendments made by subsections (a)*

1 *and (b) shall take effect on September 1, 2003. No payment*  
 2 *may be made pursuant to subsection (f) of section 1562 of*  
 3 *title 38, United States Code, as added by subsection (c) of*  
 4 *this section, before October 1, 2003.*

5 *(2) The Secretary of Veterans Affairs shall not make*  
 6 *any adjustment under subsection (e) of section 1562 of title*  
 7 *38, United States Code, as added by subsection (b) of this*  
 8 *section, in 2003.*

9 **SEC. 305. EXTENSION OF PROTECTIONS UNDER THE SOL-**  
 10 **DIERS' AND SAILORS' CIVIL RELIEF ACT OF**  
 11 **1940 TO NATIONAL GUARD MEMBERS CALLED**  
 12 **TO ACTIVE DUTY UNDER TITLE 32, UNITED**  
 13 **STATES CODE.**

14 *Section 101(1) of the Soldiers' and Sailors' Civil Relief*  
 15 *Act of 1940 (50 U.S.C. App. 511(1)) is amended—*

16 *(1) in the first sentence—*

17 *(A) by striking “and all” and inserting*  
 18 *“all”; and*

19 *(B) by inserting before the period the fol-*  
 20 *lowing: “, and all members of the National*  
 21 *Guard on service described in the following sen-*  
 22 *tence”; and*

23 *(2) in the second sentence, by inserting before the*  
 24 *period the following: “, and, in the case of a member*  
 25 *of the National Guard, shall include service under a*

9        *Section 6103(l)(7)(D) of the Internal Revenue Code of*  
10 *1986 is amended by striking “September 30, 2003” in the*  
11 *second sentence after clause (ix) and inserting “September*  
12 *30, 2008”.*

(a) *IN GENERAL.*—For the period described in subsection (b), the Secretary of Veterans Affairs shall apply section 3729(b)(2)(I) of title 38, United States Code, by substituting “1.00” for “0.50” each place it appears.

(b) *PERIOD DESCRIBED.*—The period referred to in subsection (a) is the period that begins on the date that is 7 days after the date of the enactment of this Act and ends on September 30, 2003.

23 (a) ELIGIBILITY OF CERTAIN ADDITIONAL VIETNAM  
24 ERA VETERANS FOR EDUCATION BENEFITS.—Section  
25 3011(a)(1)(C)(ii) is amended by striking “on or”.

1       (b) *ACCELERATED PAYMENT OF ASSISTANCE FOR*  
 2 *EDUCATION LEADING TO EMPLOYMENT IN HIGH TECH-*  
 3 *NOLOGY INDUSTRY.*—(1) *Subsection (b)(1) of section 3014A*  
 4 *is amended by striking “employment in a high technology*  
 5 *industry” and inserting “employment in a high technology*  
 6 *occupation in a high technology industry”.*

7       (2)(A) *The heading for section 3014A is amended to*  
 8 *read as follows:*

9       **“§ 3014A. Accelerated payment of basic educational**  
 10                   **assistance for education leading to em-**  
 11                   **ployment in high technology occupation**  
 12                   **in high technology industry”.**

13       (B) *The table of sections at the beginning of chapter*  
 14 *30 is amended by striking the item relating to section*  
 15 *3014A and inserting the following new item:*

*“3014A. Accelerated payment of basic educational assistance for education leading  
 to employment in high technology occupation in high technology  
 industry.”.*

16       (c) *SOURCE OF FUNDS FOR INCREASED USAGE OF*  
 17 *MONTGOMERY GI BILL ENTITLEMENT UNDER ENTITLE-*  
 18 *MENT TRANSFER AUTHORITY.*—(1) *Section 3035(b) is*  
 19 *amended—*

20           (A) *in paragraph (1), by striking “paragraphs*  
 21 *(2) and (3) of this subsection,” and inserting “para-*  
 22 *graphs (2), (3), and (4),”; and*

23           (B) *by adding at the end the following new*  
 24 *paragraph:*

1       “(4) *Payments attributable to the increased usage of*  
 2 *benefits as a result of transfers of entitlement to basic edu-*  
 3 *cational assistance under section 3020 of this title shall be*  
 4 *made from the Department of Defense Education Benefits*  
 5 *Fund established under section 2006 of title 10 or from ap-*  
 6 *propriations made to the Department of Transportation, as*  
 7 *appropriate.”.*

8       (2) *The amendments made by this subsection shall take*  
 9 *effect as if included in the enactment of the National De-*  
 10 *fense Authorization Act for Fiscal Year 2002 (Public Law*  
 11 *107–107), to which such amendments relate.*

12       (d) *LICENSING OR CERTIFICATION TESTS.*—Section  
 13 *3689(c)(1)(B) is amended by striking “the test” and insert-*  
 14 *ing “such test, or a test to certify or license in a similar*  
 15 *or related occupation,”.*

16       (e) *PERIOD OF ELIGIBILITY FOR SURVIVORS’ AND DE-*  
 17 *PENDENTS’ ASSISTANCE EDUCATION BENEFITS.*—(1) *Sec-*  
 18 *tion 3512(a) is amended—*

19               (A) *in paragraph (3)—*

20                       (i) *by striking “paragraph (4)” in the mat-*  
 21 *ter preceding subparagraph (A) and inserting*  
 22 *“paragraph (4) or (5)”;* and

23                       (ii) *by striking “subsection (d)” in subpara-*  
 24 *graph (C)(i) and inserting “subsection (d), or*

1           *any date between the two dates described in sub-*  
 2           *section (d)”;*

3           *(B) by redesignating paragraphs (4), (5), (6),*  
 4           *and (7) as paragraphs (5), (6), (7), and (8), respec-*  
 5           *tively;*

6           *(C) by inserting after paragraph (3) the fol-*  
 7           *lowing new paragraph (4):*

8           *“(4) if the person otherwise eligible under para-*  
 9           *graph (3) fails to elect a beginning date of entitlement*  
 10          *in accordance with that paragraph, the beginning*  
 11          *date of the person’s entitlement shall be the date of the*  
 12          *Secretary’s decision that the parent has a service-con-*  
 13          *nected total disability permanent in nature, or that*  
 14          *the parent’s death was service-connected, whichever is*  
 15          *applicable;”; and*

16          *(D) in paragraph (6), as so redesignated, by*  
 17          *striking “paragraph (4)” and inserting “paragraph*  
 18          *(5)”.*

19          *(2) The amendments made by this subsection shall take*  
 20          *effect November 1, 2000.*

21          *(f) LOAN FEES.—(1) Section 3703(e)(2)(A) is amend-*  
 22          *ed by striking “3729(b)” and inserting “3729(b)(2)(I)”.*

23          *(2) The amendment made by paragraph (1) shall take*  
 24          *effect as if included in the enactment of section 402 of the*

1 *Veterans Benefits and Health Care Improvement Act of*  
 2 *2000 (Public Law 106–419; 114 Stat. 1861).*

3 *(g) ADDITIONAL MISCELLANEOUS TECHNICAL AMEND-*  
 4 *MENTS TO TITLE 38, UNITED STATES CODE.—(1)(A) The*  
 5 *tables of chapters preceding part I and at the beginning*  
 6 *of part IV are each amended by striking “5101” in the item*  
 7 *relating to chapter 51 and inserting “5100”.*

8 *(B) The table of parts preceding part I is amended*  
 9 *by striking “5101” in the item relating to part IV and in-*  
 10 *serting “5100”.*

11 *(2) Section 107(d)(2) is amended by striking “the date*  
 12 *of the enactment of this subsection” and inserting “Novem-*  
 13 *ber 1, 2000,”.*

14 *(3) Section 1701(10)(A) is amended by striking “the*  
 15 *date of the enactment of the Veterans’ Millennium Health*  
 16 *Care and Benefits Act” and inserting “November 30,*  
 17 *1999,”.*

18 *(4) Section 1705(c)(1) is amended by striking “Effec-*  
 19 *tive on October 1, 1998, the Secretary” and inserting “The*  
 20 *Secretary”.*

21 *(5) Section 1707(a) is amended by inserting “(42*  
 22 *U.S.C. 14401 et seq.)” before the period at the end.*

23 *(6) Section 1710(e)(1)(D) is amended by striking “the*  
 24 *date of the enactment of this subparagraph” and inserting*  
 25 *“November 11, 1998”.*

1       (7) *Section 1729B(b) is amended by striking “the date*  
 2 *of the enactment of this section” and inserting “November*  
 3 *30, 1999,”.*

4       (8) *Section 1781(d) is amended—*

5           (A) *in paragraph (1)(B)(i), by striking “as of*  
 6 *the date” and all that follows through “of 2001” and*  
 7 *inserting “as of June 5, 2001”; and*

8           (B) *in paragraph (4), by striking “paragraph”*  
 9 *and inserting “subsection”.*

10       (9) *Section 3018C(e)(2)(B) is amended by striking the*  
 11 *comma after “April”.*

12       (10) *Section 3031(a)(3) is amended by striking “the*  
 13 *date of the enactment of this paragraph” and inserting “De-*  
 14 *cember 27, 2001”.*

15       (11) *Section 3485(a)(4) is amended in subparagraphs*  
 16 *(A), (C), and (F), by striking “the five-year period begin-*  
 17 *ning on the date of the enactment of the Veterans Education*  
 18 *and Benefits Expansion Act of 2001” and inserting “the*  
 19 *period preceding December 27, 2006”.*

20       (12) *Section 3734(b)(2) is amended—*

21           (A) *by striking subparagraph (B); and*

22           (B) *by redesignating subparagraphs (C), (D),*  
 23 *(E), and (F) as subparagraphs (B) (C), (D), and (E),*  
 24 *respectively.*

1       (13) Section 7315(a) is amended by inserting “Vet-  
2       erans Health” in the first sentence after “in the”.

3       (h) PUBLIC LAW 107–103.—Effective as of December  
4       27, 2001, and as if included therein as originally enacted,  
5       section 103(c) of the Veterans Education and Benefits Ex-  
6       pansion Act of 2001 (Public Law 107–103; 115 Stat. 979)  
7       is amended by inserting closing quotation marks at the end  
8       of the text inserted by the amendment made by paragraph  
9       (2).

10       (i) PUBLIC LAW 102–86.—Section 403(e) of the Vet-  
11       erans’ Benefits Programs Improvement Act of 1991 (Public  
12       Law 102–86; 105 Stat. 424) is amended by striking “sec-  
13       tion 321” and all that follows through “and 484)” and in-  
14       serting “subchapter II of chapter 5 of title 40, United States  
15       Code, sections 541 through 555 and 1302 of title 40, United  
16       States Code”.

17       **SEC. 309. CODIFICATION OF COST-OF-LIVING ADJUSTMENT**

18                       **PROVIDED IN PUBLIC LAW 107–247.**

19       (a) VETERANS’ DISABILITY COMPENSATION.—Section  
20       1114 is amended—

21               (1) by striking “\$103” in subsection (a) and in-  
22       serting “\$104”;

23               (2) by striking “\$199” in subsection (b) and in-  
24       serting “\$201”;

1           (3) by striking “\$306” in subsection (c) and in-  
 2           serting “\$310”;

3           (4) by striking “\$439” in subsection (d) and in-  
 4           serting “\$445”;

5           (5) by striking “\$625” in subsection (e) and in-  
 6           serting “\$633”;

7           (6) by striking “\$790” in subsection (f) and in-  
 8           serting “\$801”;

9           (7) by striking “\$995” in subsection (g) and in-  
 10          serting “\$1,008”;

11          (8) by striking “\$1,155” in subsection (h) and  
 12          inserting “\$1,171”;

13          (9) by striking “\$1,299” in subsection (i) and  
 14          inserting “\$1,317”;

15          (10) by striking “\$2,163” in subsection (j) and  
 16          inserting “\$2,193”;

17          (11) in subsection (k)—

18                (A) by striking “\$80” both places it appears  
 19                and inserting “\$81”; and

20                (B) by striking “\$2,691” and “\$3,775” and  
 21                inserting “\$2,728” and “\$3,827”, respectively;

22          (12) by striking “\$2,691” in subsection (l) and  
 23          inserting “\$2,728”;

24          (13) by striking “\$2,969” in subsection (m) and  
 25          inserting “\$3,010”;

1           (14) by striking “\$3,378” in subsection (n) and  
2           inserting “\$3,425”;

3           (15) by striking “\$3,775” each place it appears  
4           in subsections (o) and (p) and inserting “\$3,827”;

5           (16) by striking “\$1,621” and “\$2,413” in sub-  
6           section (r) and inserting “\$1,643” and “\$2,446”, re-  
7           spectively; and

8           (17) by striking “\$2,422” in subsection (s) and  
9           inserting “\$2,455”.

10          (b) *ADDITIONAL COMPENSATION FOR DEPEND-*  
11          *ENTS.—Section 1115(1) is amended—*

12           (1) by striking “\$124” in subparagraph (A) and  
13           inserting “\$125”;

14           (2) by striking “\$213” in subparagraph (B) and  
15           inserting “\$215”;

16           (3) by striking “\$84” in subparagraph (C) and  
17           inserting “\$85”;

18           (4) by striking “\$100” in subparagraph (D) and  
19           inserting “\$101”;

20           (5) by striking “\$234” in subparagraph (E) and  
21           inserting “\$237”; and

22           (6) by striking “\$196” in subparagraph (F) and  
23           inserting “\$198”.

1       (c) *CLOTHING ALLOWANCE FOR CERTAIN DISABLED*  
2 *VETERANS.*—Section 1162 is amended by striking “\$580”  
3 and inserting “\$588”.

4       (d) *DEPENDENCY AND INDEMNITY COMPENSATION FOR*  
5 *SURVIVING SPOUSES.*—(1) Section 1311(a) is amended—  
6           (A) by striking “\$935” in paragraph (1) and in-  
7       serting “\$948”; and  
8           (B) by striking “\$202” in paragraph (2) and in-  
9       serting “\$204”.  
10       (2) The table in section 1311(a)(3) is amended to read  
11 as follows:

<i>“Pay grade</i>	<i>Monthly</i>	<i>Pay grade</i>	<i>Monthly</i>
	<i>rate</i>		<i>rate</i>
<i>E-1</i> .....	\$948	<i>W-4</i> .....	\$1,134
<i>E-2</i> .....	948	<i>O-1</i> .....	1,001
<i>E-3</i> .....	948	<i>O-2</i> .....	1,035
<i>E-4</i> .....	948	<i>O-3</i> .....	1,107
<i>E-5</i> .....	948	<i>O-4</i> .....	1,171
<i>E-6</i> .....	948	<i>O-5</i> .....	1,289
<i>E-7</i> .....	980	<i>O-6</i> .....	1,453
<i>E-8</i> .....	1,035	<i>O-7</i> .....	1,570
<i>E-9</i> .....	<sup>1</sup> 1,080	<i>O-8</i> .....	1,722
<i>W-1</i> .....	1,001	<i>O-9</i> .....	1,843
<i>W-2</i> .....	1,042	<i>O-10</i> .....	<sup>2</sup> 2,021
<i>W-3</i> .....	1,072		

<sup>1</sup> If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$1,165.

<sup>2</sup> If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$2,168.”.

12       (3) Section 1311(b) is amended by striking “\$234”  
13 and inserting “\$237”.  
14       (4) Section 1311(c) is amended by striking “\$234” and  
15 inserting “\$237”.

1       (5) *Section 1311(d) is amended by striking “\$112”*  
 2       *and inserting “\$113”.*

3       (e) *DEPENDENCY AND INDEMNITY COMPENSATION FOR*  
 4       *CHILDREN.—(1) Section 1313(a) is amended—*

5               (A) *by striking “\$397” in paragraph (1) and in-*  
 6               *serting “\$402”;*

7               (B) *by striking “\$571” in paragraph (2) and in-*  
 8               *serting “\$578”;*

9               (C) *by striking “\$742” in paragraph (3) and in-*  
 10              *serting “\$752”; and*

11              (D) *by striking “\$742” and “\$143” in para-*  
 12              *graph (4) and inserting “\$752” and “\$145”, respec-*  
 13              *tively.*

14       (2) *Section 1314 is amended—*

15              (A) *by striking “\$234” in subsection (a) and in-*  
 16              *serting “\$237”;*

17              (B) *by striking “\$397” in subsection (b) and in-*  
 18              *serting “\$402”; and*

19              (C) *by striking “\$199” in subsection (c) and in-*  
 20              *serting “\$201”.*

1     ***TITLE IV—JUDICIAL MATTERS***

2     ***SEC. 401. STANDARD FOR REVERSAL BY COURT OF AP-***  
3                     ***PEALS FOR VETERANS CLAIMS OF ERRO-***  
4                     ***NEOUS FINDING OF FACT BY BOARD OF VET-***  
5                     ***ERANS' APPEALS.***

6             (a) *STANDARD FOR REVERSAL.*—Paragraph (4) of  
7     subsection (a) of section 7261 is amended—

8                     (1) by inserting “adverse to the claimant” after  
9             “material fact”; and

10                    (2) by inserting “or reverse” after “and set  
11     aside”.

12             (b) *REQUIREMENTS FOR REVIEW.*—Subsection (b) of  
13     that section is amended to read as follows:

14                    “(b) In making the determinations under subsection  
15     (a), the Court shall review the record of proceedings before  
16     the Secretary and the Board of Veterans’ Appeals pursuant  
17     to section 7252(b) of this title and shall—

18                             “(1) take due account of the Secretary’s applica-  
19             tion of section 5107(b) of this title; and

20                             “(2) take due account of the rule of prejudicial  
21             error.”.

22             (c) *APPLICABILITY.*—(1) *Except as provided in para-*  
23     *graph (2), the amendments made by this section shall take*  
24     *effect on the date of the enactment of this Act.*

1       (2) *The amendments made by this section shall apply*  
 2 *with respect to any case pending for decision before the*  
 3 *United States Court of Appeals for Veterans Claims other*  
 4 *than a case in which a decision has been entered before the*  
 5 *date of the enactment of this Act.*

6 **SEC. 402. REVIEW BY COURT OF APPEALS FOR THE FED-**  
 7 **ERAL CIRCUIT OF DECISIONS OF LAW OF**  
 8 **COURT OF APPEALS FOR VETERANS CLAIMS.**

9       (a) *REVIEW.*—Section 7292(a) is amended by insert-  
 10 *ing “a decision of the Court on a rule of law or of” in*  
 11 *the first sentence after “the validity of”.*

12       (b) *APPLICABILITY.*—*The amendment made by sub-*  
 13 *section (a) shall apply with respect to any appeal—*

14               (1) *filed with the United States Court of Appeals*  
 15 *for the Federal Circuit on or after the date of the en-*  
 16 *actment of this Act; or*

17               (2) *pending with the United States Court of Ap-*  
 18 *peals for the Federal Circuit as of the date of the en-*  
 19 *actment of this Act in which a decision has not been*  
 20 *rendered as of that date.*

1 **SEC. 403. AUTHORITY OF COURT OF APPEALS FOR VET-**  
2 **ERANS CLAIMS TO AWARD FEES UNDER**  
3 **EQUAL ACCESS TO JUSTICE ACT FOR NON-AT-**  
4 **TORNEY PRACTITIONERS.**

5 *The authority of the United States Court of Appeals*  
6 *for Veterans Claims to award reasonable fees and expenses*  
7 *of attorneys under section 2412(d) of title 28, United States*  
8 *Code, shall include authority to award fees and expenses,*  
9 *in an amount determined appropriate by the United States*  
10 *Court of Appeals for Veterans Claims, of individuals admit-*  
11 *ted to practice before the Court as non-attorney practi-*  
12 *tioners under subsection (b) or (c) of Rule 46 of the Rules*  
13 *of Practice and Procedure of the United States Court of Ap-*  
14 *peals for Veterans Claims.*

Amend the title so as to read “An Act to amend title 38, United States Code, to improve authorities of the Department of Veterans Affairs relating to veterans’ compensation, dependency and indemnity compensation, and pension benefits, education benefits, housing benefits, memorial affairs benefits, life insurance benefits, and certain other benefits for veterans, to improve the administration of benefits for veterans, to make improvements in procedures relating to judicial review of veterans’ claims for benefits, and for other purposes.”.

Attest:

*Clerk.*

107TH CONGRESS  
2D SESSION

**S. 2237**

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**AMENDMENTS**