

## Calendar No. 706

108TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
108-352

### VETERANS' BENEFITS IMPROVEMENTS ACT OF 2004

SEPTEMBER 20, 2004.—Ordered to be printed

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

### R E P O R T

[To accompany S. 2486]

The Committee on Veterans' Affairs (hereinafter, "Committee"), to which was referred the bill S. 2486, to amend title 38, United States Code, to improve and enhance education, housing, employment, medical, and other benefits for veterans and to improve and extend certain authorities relating to the administration or benefits for veterans, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

#### INTRODUCTION

On June 1, 2004, Committee Chairman Arlen Specter introduced S. 2486, a bill to improve and enhance education, housing, employment, medical, and other benefits for veterans and to improve and extend certain authorities relating to the administration of benefits for veterans, and for other purposes. Committee Member Lisa Murkowski is an original cosponsor of S. 2486. Committee Member Patty Murray was later added as a cosponsor. The bill was referred to the Committee on Veterans' Affairs.

On February 23, 2004, Committee Member Zell Miller introduced S. 2099, a bill to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than two years of active duty service in any five-year period, and for other purposes. Senator Michael DeWine is an original cosponsor of S. 2099. Committee Members Lisa Murkowski and Patty Murray, and Senators George Allen, Christopher S. Bond, John B. Breaux, Thad Cochran, Norm Coleman, Michael D. Crapo, Mark Dayton, Mary Landrieu, Patrick J. Leahy, Blanche

Lincoln, Jeff Sessions, and Gordon Smith were later added as cosponsors. The bill was referred to the Committee on Veterans' Affairs.

On June 15, 2004, Senator Jon S. Corzine introduced S. 2522, a bill to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs (hereinafter, "VA"), and for other purposes. Committee Members Lisa Murkowski and Patty Murray, and Senators Bill Nelson, John E. Ensign, and Hillary Rodham Clinton were later added as cosponsors. The bill was referred to the Committee on Veterans' Affairs.

On June 16, 2004, Committee Ranking Minority Member Bob Graham introduced S. 2534, a bill to extend and enhance benefits under the Montgomery GI Bill, to improve housing benefits for veterans, and for other purposes. Committee Member Patty Murray and Senator Bill Nelson were later added as cosponsors. The bill was referred to the Committee on Veterans' Affairs.

#### COMMITTEE HEARING

On June 22, 2004, the Committee held a hearing on, among other bills, S. 2099, S. 2486, S. 2522, and S. 2534. Testimony was heard from: Senators Kent Conrad, Hillary Rodham Clinton, and Jon S. Corzine; The Honorable Gordon H. Mansfield, Deputy Secretary of Veterans Affairs; Mr. Donald L. Mooney, Assistant Director for Resource Development, Veterans Affairs and Rehabilitation Commission, The American Legion; Mr. Paul Hayden, Deputy Director, National Legislative Service, Veterans of Foreign Wars; Mr. Adrian M. Atizado, Assistant National Legislative Director, Disabled American Veterans; Mr. Carl Blake, Associate Legislative Director, Paralyzed Veterans of America; and Mr. Richard Jones, National Legislative Director, AMVETS.

#### COMMITTEE MEETING

After carefully reviewing the testimony from the foregoing hearing, the Committee met in open session on July 20, 2004, and voted by unanimous voice vote to report favorably S. 2486, as amended, to include provisions derived from S. 2099, S. 2522, S. 2534, and S. 2486, as introduced.

#### SUMMARY OF THE COMMITTEE BILL AS REPORTED

S. 2486, as reported (hereinafter, "the Committee bill") contains various amendments to title 38, United States Code, that would:

- (a) Index the maximum VA home loan guaranty to 25 percent of the "conforming loan limit";
- (b) Reinstate and extend through 2011 VA authority to guarantee adjustable rate mortgage loans;
- (c) Extend through 2011 VA authority to guarantee hybrid adjustable rate mortgage loans and revise interest rate adjustment cap protections on such loans;
- (d) Eliminate the collection of home loan funding fees from service members rated eligible for VA compensation due to a pre-discharge medical examination and rating;

(e) Create flexibility in the timing of the collection of contributions towards Montgomery GI Bill eligibility from members of the Selected Reserve called to active duty;

(f) Permit certain members of the Selected Reserve called to active duty service for an aggregate of 24 months within a 60-month period to be eligible for active duty Montgomery GI Bill educational assistance benefits;

(g) Extend from 10 to 20 the number of years during which spouses of service members who die while on active duty may use their entitlement to Survivors' and Dependents' Educational Assistance benefits;

(h) Allow veterans and service members to use VA educational assistance benefits to pay for approved national admissions exams and national exams for credit at institutions of higher education;

(i) Afford administrative and judicial redress protections to certain veterans competing for Federal employment positions;

(j) Extend through 2009 the requirement that the Advisory Committee on Former Prisoners of War submit to VA a biennial report; and

(k) Modify the definition of a "minority group member" veteran for purposes of the Advisory Committee on Minority Veterans.

## DISCUSSION

### *Section 101. Increase maximum amount of home loan guaranty and annual indexing of amount*

#### *Background*

Chapter 37 of title 38, United States Code, authorizes VA to provide a "guaranty" of up to \$60,000 on a home loan made by a bank, thrift, or other mortgage lender to eligible VA beneficiaries (veterans, active duty service members, and certain survivors of veterans). Since World War II, over 17 million homes have been purchased with a VA guaranty. In 2003, VA guaranteed nearly 500,000 loans with a total value of almost \$63.3 billion. Most of the loans VA guarantees for original home purchases are made with no down payment from the beneficiary. If a lender forecloses on a property secured by loan guaranteed by VA, VA may either pay to the lender the guaranty amount or VA may purchase the property from the foreclosing lender and later resell it.

Lenders who make loans backed by a VA guaranty typically sell those loans in the secondary mortgage market. It is customary for such lenders, through intermediaries, to bundle them for sale as mortgage-backed securities. The Government National Mortgage Association (hereinafter, "GNMA") guarantees to buyers of these mortgage-backed securities the timely payment of principal and interest on the underlying loans. GNMA requires that 25 percent of the loan amount on all government-backed loans underlying mortgage-backed securities be covered by either a downpayment, guaranty, or a combination of the two. Thus, because VA's maximum loan guaranty is \$60,000, and because most VA loan guaranty beneficiaries make no down payment, the effective limit on a loan a lender is willing to make to a VA beneficiary is \$240,000, or four times the maximum VA guaranty limit.

The Committee received testimony at its June 22, 2004, hearing indicating that the \$240,000 effective loan limit available to VA beneficiaries is insufficient to cover median housing costs in many areas of the country. Citing one example, Senator Jon S. Corzine of New Jersey testified that “the Newark Metropolitan Statistical Area has an average home price of \$331,000, and \$240,000 just does not comport with that. \* \* \*” According to a July 2004 program evaluation report (Evaluation of VA’s Home Loan Guaranty Program: Final Report) completed by a contractor at VA’s request, the VA loan limit restricts beneficiaries from using VA loans in high-cost areas.

Currently, Congressional action is required to raise the VA loan guaranty amount. One out of every two respondents to a survey conducted for the above-referenced report suggested a different approach: a statutory “indexing” of the maximum loan amount to local area home prices. Such an “index” would eliminate the need for statutory adjustments to the maximum home loan guaranty amount. A major recommendation of the above-referenced report was to index the VA maximum guaranty so that the effective loan limit would be equal to 100 percent of the conforming loan limit, an annually-adjusted limit on loans purchased by the Federal Home Loan Mortgage Corporation (hereinafter, “Freddie Mac”) and the Federal National Mortgage Association.

#### *Committee bill*

Consistent with the recommendation of the above-referenced report, section 101 of the Committee bill would index the maximum amount of VA’s loan guaranty. It would equal 25 percent of the conforming loan limit for a single-family residence as set by Freddie Mac. Thus, this section of the Committee bill would allow VA loan guaranty beneficiaries to use their VA guaranty entitlement on a loan equal to or less than the amount of the conforming loan limit which, as of the date of this report, is set at \$333,700.

#### *Section 102. Extension of authority for guarantee of adjustable rate mortgages*

##### *Background*

Public Law 102–547, the Veterans Home Loan Program Amendments of 1992, authorized a three-year test of a VA-guaranteed adjustable rate mortgage (hereinafter, “ARM”) program modeled after the Federal Housing Administration’s (hereinafter, “FHA”) ARM program. Under the VA program, which was in force from fiscal years 1993 to 1995, VA guaranteed loans that carried an annual interest rate adjustment; the annual adjustment was required to correspond to a specified national interest rate index. In addition, to safeguard VA beneficiaries from overly-burdensome escalations in interest rates, interest rate cap protections were put into place. These caps ensured that no single interest rate adjustment would exceed one percentage point, and that, over the term of the mortgage, the cumulative escalation in interest rates could be no greater than five percentage points.

ARM financing offers substantially lower rates of interest than conventional 30-year mortgage loans. While interest rates may later increase, resulting in higher monthly mortgage payments, the

same risk is assumed by FHA ARM users, a risk the Congress determined is acceptable to consumers when it made that program permanent. A fundamental question, then, is whether the VA loan guaranty program, a program primarily benefitting veterans and active duty service members, should have the same financing options as the FHA program, a program for the general public.

Testimony received at the Committee's June 22, 2004, hearing conveyed widespread support among the veterans' service organizations for reinstating the VA ARM program. Further, the Mortgage Bankers Association (hereinafter, "MBA"), whose members make the vast majority of VA-guaranteed loans, submitted the following testimony regarding the VA ARM program: "MBA believes that it is important to offer veterans as many mortgage options as other borrowers. Over the past ten years, underwriting policies and procedures have advanced such that one-year ARMs can be successfully originated. FHA and the private sector have proven this."

#### *Committee bill*

Section 102 would reinstate the VA ARM program through fiscal year 2011. All of the interest rate cap protections that existed under the pilot program would remain.

#### *Section 103. Extension and improvement of authority for guarantee of hybrid adjustable rate mortgages*

##### *Background*

Section 303 of Public Law 107-330 authorized VA, during fiscal years 2004 and 2005, to guarantee so-called "hybrid" adjustable rate mortgage (hereinafter, "hybrid ARM") loans, loans that carry a fixed rate of interest for an initial period followed by annual interest rate adjustments thereafter. Under current law, annual interest rate adjustments on hybrid ARM loans are subject to a maximum increase or decrease of one percentage point and are limited, over the term of the mortgage, to a maximum increase of five percentage points above the initial fixed interest rate.

VA's hybrid ARM home loan program, though it is less than one year old, has already drawn significant interest among VA beneficiaries. VA has guaranteed over 35,000 hybrid ARM loans, representing 16 percent of its entire loan production and 27 percent of its refinancing volume through April 2004. All of the hybrid ARM loans guaranteed by VA carry a fixed rate of interest for the first three years with annual adjustments thereafter.

According to the Mortgage Bankers Association, lenders have expressed little interest in offering other hybrid ARM financing options, e.g., hybrid ARM loans with the initial rate of interest fixed for five, seven, or ten years, due to the interest rate cap protections associated with the program now in force. Public Law 108-186 (December 16, 2003) addressed a similar issue with respect to the FHA hybrid ARM program and provides FHA with greater flexibility on setting interest rate cap protections so that additional FHA-insured hybrid ARM financing options might be made available.

It is clear from the above-cited VA program evaluation report that beneficiaries are interested in a greater array of VA financing options. Over one-fourth of the report's survey respondents indicated that they would have been interested in a VA ARM or hybrid

ARM. It is also clear that VA has lagged behind FHA in modernizing its home loan program. If the VA home loan program is to provide a benefit that is distinguishable from, and more attractive than, commercial or government home loan benefits available to the general public, VA programs must be kept apace with evolving mortgage practices and industry standards.

*Committee bill*

Section 103 would extend the authority of VA to guarantee hybrid ARM loans through 2011. In addition, it would put in place interest rate cap protections similar to those now in place for FHA's hybrid ARM program. First, section 103 would retain the annual interest rate adjustment requirements with respect to hybrid ARM loans with fixed periods of interest of three years or less. For such loans, the initial and subsequent annual interest rate adjustments would continue to be limited to one percentage point. For hybrid ARM loans with an initial rate of interest fixed for five or more years, section 103 would give VA the authority to set an appropriate interest rate cap for the initial interest rate adjustment (the current industry standard is a two percentage point cap). Annual adjustments thereafter would be subject to a one percentage point cap. Finally, section 103 would require VA to prescribe the maximum number of percentage points above the initial fixed rate of interest that would limit, over the term of a mortgage, interest rate adjustments (depending on the hybrid ARM loan, the current industry standard is to apply either a five or six percentage point cap over the life of a mortgage). Providing VA flexibility in setting interest rate cap protections would entice lenders to offer VA beneficiaries a broader array of hybrid ARM financing options, options similar to those available under the FHA program.

*Section 104. Termination of collection of loan fees from veterans rated eligible for compensation based on pre-discharge rating examinations*

*Background*

In general, beneficiaries who utilize their VA home loan guaranty benefit must pay a "funding fee" to VA. The funding fee amount, which may be financed along with the principal of the loan, is based on two factors: the size of the loan being guaranteed by VA and the downpayment amount being paid by a beneficiary. By law, however, VA may not collect a funding fee from a veteran who is in receipt of VA service-connected disability compensation (or who, but for the receipt of retired pay, would be entitled to receive disability compensation).

Veterans are not entitled to receive disability compensation until they have been discharged or released from active duty service under conditions other than dishonorable. Thus, beneficiaries of the VA loan guaranty program who are on active duty in the military may not secure a funding fee waiver, irrespective of whether they have suffered a service-connected disability. VA currently provides pre-discharge disability examinations, and it awards disability ratings, to active duty service members at over 136 military installations worldwide. However, as mentioned above, the law proscribes the payment of compensation to service members on the basis of

those examinations and ratings until they are released from active duty service. The lag between the time examinations and ratings occur and the time a service member is officially discharged from service can be quite long. During the time lag, many disabled service members utilize their VA home loan benefit but are required to pay the requisite funding fee.

Testifying in support of waiving the fee requirements at the Committee's June 22, 2004, hearing VA Deputy Secretary Gordon Mansfield stated that VA "believe[s] waiving the fee for a veteran or service member who has been rated eligible for compensation but who purchases a home before payment of the benefit has begun \* \* \* [would be] a logical extension of existing law."

#### *Committee bill*

Section 104 would allow a service member who is rated eligible to receive compensation as a result of a pre-discharge medical examination to qualify for waiver of the VA home loan funding fee.

*Section 201. Collection of contributions for educational assistance under Montgomery GI Bill from members of the Selected Reserve called to active duty*

#### *Background*

Eligibility for Montgomery GI Bill educational assistance benefits based on active duty service (hereinafter, "MGIB-AD") is predicated on, among other things, a service member's active duty pay being "reduced by \$100 for each of the first 12 months that such individual is entitled to such pay," 38 U.S.C. §§3011(b) and 3012(c), and by a service member's completion of two consecutive years of active duty service. The \$1,200 contribution is not refundable. Members of the Selected Reserve called to active duty service may become eligible for MGIB-AD by complying with the \$1,200 contribution and minimum years of consecutive service requirements. There are two practical difficulties, however, concerning the ability of Selected Reserve members to fulfill these eligibility requirements.

The first difficulty arises from the impossibility of a Selected Reserve member knowing whether he or she will be activated for two consecutive years, a prerequisite for MGIB-AD eligibility. The Department of Defense (hereinafter, "DOD") has a "judicious use" policy with respect to activated Selected Reserve members. It will only retain reservists on active duty for as long as is necessary to accomplish the mission at hand. It is possible, then, for an activated Selected Reserve member to make the non-refundable \$1,200 contribution upon activation, but then be deactivated prior to serving two consecutive years on active duty. In such a case, the Selected Reserve member would forfeit his or her \$1,200 contribution. It is also possible to have a situation where a Selected Reserve member fulfilled the requirement of serving two continuous years of active duty but, because of the impossibility of knowing in advance the length of the active duty call-up period, failed to make the \$1,200 contribution.

The second practical difficulty arises from the manner in which active duty components receive their pay compared to Selected Reserve members. The Defense Joint Military System for Active Com-

ponent (hereinafter, “DJMS–AC”) is the payment system for all active duty service members. It contains a functionality that allows for the collection of the \$1,200 MGIB–AD contribution. By contrast, the Defense Joint Military System for Reserve Component (hereinafter, “DJMS–RC”), the pay system for members of the Selected Reserve, does not contain a functionality that allows for the \$1,200 collection, even though Guard and Reserve personnel continue to be paid under the DJMS–RC after they are called to active duty. Thus, a large number of activated Selected Reserve members cannot make the \$1,200 contribution automatically from their pay checks—thereby legally jeopardizing their entitlement to MGIB–AD—due to a lack of a compliant pay system.

In recognition of these practical difficulties, it has been DOD and VA practice to allow Selected Reserve members who are extended after their first year of active duty to begin making required monthly contributions or to make a full contribution upon completion of the two years required to become eligible for educational assistance benefits. Because of the lack of pay-system functionality, DOD has even set up a special cash collection voucher system to facilitate payment of the \$1,200 contribution.

#### *Committee bill*

Section 201 would permit the Secretary of Defense (or, in cases involving the activation of Reserve Coast Guard personnel, the Secretary of Homeland Security) to collect an activated Selected Reserve member’s \$1,200 contribution before the service member commences use of educational assistance benefits. It would then explicitly authorize the practice already adopted by the services for facilitating eligibility for MGIB–AD educational assistance benefits.

*Section 202. Educational assistance under Montgomery GI Bill for members of the Selected Reserve who aggregate two or more years of active duty service during any five-year period*

#### *Background*

In general, individuals who enlist in the Armed Forces after June 30, 1985, and who serve at least two consecutive years of active duty are currently entitled to MGIB–AD educational assistance benefits of \$800 per month for full-time study (and reduced amounts for less than full-time study). Individuals who serve at least three consecutive years are entitled to MGIB–AD benefits of \$985 monthly for full-time study (and reduced amounts for less than full-time study). The maximum duration of monthly benefits is 36 months (or the equivalent if study is less than full-time). Individuals who fail to complete their enlistment periods due to service-connected disability or for the convenience of the government may receive a lesser duration of monthly benefits. A \$1,200 contribution is required by the service member during the first 12 months of active duty service, and benefits must be used within ten years of discharge.

Individuals who enlist in the Armed Forces after June 30, 1985, and who serve at least two consecutive years of active duty, followed by four consecutive years of Selected Reserve service, are also entitled to MGIB–AD of \$985 per month for full-time study (and reduced amounts for less-than-full-time study). The duration



of monthly benefits is equal to the number of months an individual served on active duty, plus one month for every four months an individual served in the Selected Reserve, but in no case may the duration of entitlement exceed 36 months (or the equivalent thereof if study is less-than-full-time). A \$1,200 contribution is required by the service member during the first 12 months of active duty service, and benefits must be used within ten years of discharge.

A member of a reserve component who agrees to serve in the Selected Reserve for a minimum of six years is entitled to a monthly benefit of \$282 per month for full-time study (and reduced amounts for less-than-full-time study) under the Montgomery GI Bill for Selected Reserve (hereinafter, "MGIB-SR") program. There is no contribution required for MGIB-SR, and benefits must be used within 14 years of the individual first joining the Selected Reserve or prior to an individual's separation from the Selected Reserve, whichever occurs first. The maximum duration of assistance is 36 months (or the equivalent thereof if study is less-than-full-time).

There is a large discrepancy between the benefit provided under MGIB-AD and MGIB-SR. The discrepancy exists despite the fact that, over the past decade, members of the Selected Reserve have been called to active duty service with greater frequency, and for longer durations, than had heretofore been the norm. As stated by Richard Jones of AMVETS at the Committee's June 22, 2004, hearing, "[i]n the four decades of the Cold War, Reserves faced only two Presidential activations—once during the 1948 Berlin airlift and once again for a limited call-up during the Vietnam War. The upward spiral of mobilization and deployment since 1990 stands in stark contrast to the previous period. Reserves have participated in the Persian Gulf War, Bosnia, Kosovo, Afghanistan, Iraq and elsewhere around the globe. While some units have been called up more often than others, overall operations have dramatically transformed the Reserves as an essential part of combat operations."

The duration of a Selected Reserve member's activation can vary by mission. Because of the increased operational demands of the Global War on Terrorism, it is common for Selected Reserve members to be called to active duty for 12 to 18 months, then called to active duty again after a brief demobilization period. Thus, while Selected Reserve member service on active duty may, in the aggregate, exceed two years, because such service is not continuous, it does not give rise to eligibility for MGIB-AD benefits.

The United States Commission on National Security/21st Century, chaired by former Senators Gary Hart and Warren Rudman, has recommended that the Congress enhance education benefits, on a sliding scale, for Guard and Reserve personnel called to active duty for overseas contingency operations. See Road Map for National Security: Imperative for Change at 107.

#### *Committee bill*

Section 202 would grant an individual in the Selected Reserve who, during any five-year period beginning on or after September 11, 2001, serves an aggregate of two years of active duty service entitlement to \$800 of monthly educational assistance for full-time study (and a reduced amount for less-than-full-time study). The two years of aggregate active duty service would have to be completed in the period beginning on or after September 11, 2001, and

ending on June 30, 2008. A member of the Selected Reserve would be required to make a \$1,200 contribution within one year of completing his or her second year of aggregate active duty service in order to gain eligibility for this enhanced educational assistance benefit. The duration of educational assistance would be equal to the number of months the individual served on active duty, plus one month for every four months he or she served in the Selected Reserve after such active duty service, but in no case would the duration of entitlement exceed 36 months (or the equivalent thereof if study is less than full time). Section 202 would also charge the Secretaries of Defense and Homeland Security with informing Selected Reserve members of this new benefit.

*Section 203. Ten-year extension of delimiting period for survivors' and dependents' educational assistance for spouses of members who die on active duty*

*Background*

Survivors' and Dependents' Educational Assistance (hereinafter, "DEA") is available to spouses and dependents of the following persons: veterans who are totally and permanently disabled due to service-connected causes; veterans who died as a result of service-related injuries; and service members who died while on active duty. DEA benefits are paid at a rate of \$788 per month for a maximum duration of 45 months. They will be paid to eligible beneficiaries who are pursuing approved programs of education, farm cooperative programs, correspondence courses, special restorative training programs, or programs of apprenticeship or approved on-the-job training programs. Survivors and dependents must use their DEA entitlement within a prescribed period of time, commonly referred to as a "delimiting period." For spouses of veterans with "total and permanent" disability ratings, a ten-year delimiting period begins on the date VA assigns that rating. Another ten-year delimiting period begins on the date a veteran with a total and permanent disability rating dies and is survived by his or her spouse. It is possible for a surviving spouse to have more than one delimiting period during which to use DEA benefits.

The delimiting period for spouses of service members who die while on active duty generally begins on the date of the service member's death. If physical or mental disability prevents the surviving spouse from initiating or completing a chosen program of study, the delimiting period may be extended.

For spouses with children, especially young children, using DEA benefits within the delimiting period may be difficult. Single parents face tremendous challenges in raising their children; greater flexibility in the application of the delimiting period for these spouses is needed. Greater flexibility is also needed for surviving spouses without children. A host of factors may preclude the use of DEA benefits during the ten-year period following a service member's death, such as an extended grieving process, job demands, or simply the lack of an immediate need for education or training. Most Americans would likely affirm that the Nation's responsibility to ensure adequate education and training for surviving spouses is no different 11 years after a service member's death than it is immediately following it.

*Committee bill*

Section 203 would extend the delimiting period from ten to 20 years for the surviving spouses of service members who die while on active duty. Surviving spouses who are within their ten-year delimiting period as of the date this section is enacted into law would qualify for the extended 20-year delimiting period.

*Section 204. Availability of education benefits for payment for national admissions exams and national exams for credit at institutions of higher education*

*Background*

Generally, beneficiaries of VA's educational assistance programs may use their benefits for the pursuit of approved programs of education that are necessary for the attainment of an identified educational, professional, or vocational objective. Beneficiaries may also use their benefits to pay for licensing or certification tests required to enter, maintain, or advance in a vocation or profession.

In 1999, section 701 of Public Law 106-117 authorized beneficiaries of the Montgomery GI Bill educational assistance program to use their benefits to pay for preparatory courses for tests required for admission to an institution of higher learning or to a graduate school. No authorization was given, however, to allow beneficiaries to use their educational assistance benefits to pay for the actual fees for tests required for admission, e.g., SAT, ACT, LSAT, GRE, GMAT, MCAT, and other national tests. Admission test costs vary, but it is common for test takers to attempt the same test more than once, sit for multiple tests, or to attempt the tests at extended intervals. The expense of doing so is not trivial.

Senator Bob Graham, Ranking Minority Member of the Committee, made the following comments in a floor statement accompanying legislation he introduced regarding the probable effect of allowing beneficiaries to use their education benefits to pay for admissions tests: "This would greatly aid the individuals who have been absent from an academic setting for a long period of time and would go a long way in preparing them for their educational endeavors." These sentiments were echoed at the Committee's June 22, 2004, hearing by the veterans' organizations present.

*Committee bill*

Section 204 would allow beneficiaries of all of VA's educational assistance programs to use their benefits to pay for fees for national tests for admission to institutions of higher learning or graduate schools (such as the SAT, LSAT, GRE, and GMAT), and for national tests such as advance placement exams and CLEP exams that can qualify veterans for receipt of college credit.

*Section 301. Availability of administrative and judicial redress for certain veterans denied opportunity to compete for Federal employment*

*Background*

Veterans who served during a wartime period, or during a period for which a campaign badge or expeditionary medal was awarded, and veterans with service-connected disabilities, are accorded cer-

tain advantages when competing for Federal job openings. These veterans—referred to as “preference eligible” veterans—along with veterans who have been separated from the Armed Forces under honorable conditions after three years or more of active service, may not be denied the opportunity to compete for job openings for which a Federal agency is accepting applications from individuals outside of its own workforce.

Current law authorizes preference eligible veterans the right to seek administrative redress, first with the Secretary of Labor and then in a United States District Court, for alleged violations of their employment rights. However, there is no legal authority for non-preference eligible veterans with three or more years of active duty service to seek the same administrative and judicial review of alleged Federal agency violations.

*Committee bill*

Section 301 would grant veterans who have been separated from the Armed Forces under honorable conditions after three years or more of active service the right to seek administrative and judicial review of alleged Federal agency violations of their right to compete for Federal job openings.

*Section 302. Extension of biennial report of Advisory Committee on Former Prisoners of War*

*Background*

Section 541 of title 38, United States Code, establishes an Advisory Committee on Former Prisoners of War. The purpose of the Advisory Committee is to assess the needs of, and to review VA programs relating to, former prisoners of war, and to make recommendations to the VA for administrative or legislative action. The Advisory Committee is to submit a report to the VA no later than July 1st of each odd numbered year through 2003. Thus, the reporting requirement has lapsed.

*Committee bill*

Section 302 would extend, for a period of six years (through 2009), the requirement that the Advisory Committee on Former Prisoners of War submit a report to VA no later than July 1st of each odd numbered year.

*Section 303. Modification of definition of minority group member for purposes of Advisory Committee on Minority Veterans*

*Background*

Section 544 of title 38, United States Code, establishes an Advisory Committee on Minority Veterans. For purposes of that section of law, “minority groups members” include veterans who are: Asian American; Black; Hispanic; Native American (including American Indian, Alaskan Native, and Native Hawaiian); or Pacific-Islander American. The VA must consult with and seek the advice of the Advisory Committee on a regular basis with respect to the administration of benefits for veterans who are minority group members.

*Committee bill*

Section 303 would amend the definition of a “minority group member” veteran to make it conform to the new Race and Ethnic Standards used in Federal statistical reporting and in the 2000 United States Census. Specifically, section 303 would redefine the categories of minority group member veterans by making the following changes: substituting “Asian” for “Asian American”; “Black or African American” for “Black”; “Hispanic, Latino, or Spanish Origin” for “Hispanic”; and “American Indian or Alaska Native” and “Native Hawaiian or other Pacific Islander” for “Native American (including American Indian, Alaskan Native, and Native Hawaiian).” This provision would not change eligibility or entitlement to existing or future benefits.

## COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office (hereinafter, “CBO”), estimates that enactment of the Committee bill would, relative to current law, decrease direct spending by \$38 million in 2005, decrease direct spending by \$27 million over the 2005–2009 period, and decrease direct spending by \$9 million over the 2005–2014 period. In addition, discretionary spending resulting from S. 2486 would be less than \$100,000 a year over the 2005–2009 period, assuming appropriation of the necessary amounts. Enactment of the Committee bill would not affect the budget of state, local, or tribal governments.

The cost estimate provided by CBO, setting forth a detailed breakdown of costs, follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 19, 2004.*

Hon. ARLEN SPECTER,  
*Chairman, Committee on Veterans’ Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2486, the Veterans’ Benefits Improvements Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah T. Jennings.

Sincerely,

DOUGLAS HOLTZ-EAKIN, *Director.*

Enclosure.

*Veterans’ Benefits Improvements Act of 2004*

Summary: S. 2486 would make changes to several veterans programs, primarily housing and readjustment benefits. CBO estimates that enacting this legislation would decrease direct spending for veterans programs by \$27 million over the 2005–2009 period and by \$9 million over the 2005–2014 period. In addition, CBO estimates that discretionary spending resulting from S. 2486 would be less than \$100,000 a year over the 2005–2009 period, assuming appropriation of the necessary amounts.

S. 2486 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

**Estimated cost to the Federal Government:** The estimated budgetary impact of S. 2486 over the 2005–2009 period is shown in Table 1. The costs of this legislation fall within budget function 700 (veterans benefits and services).

**Basis of estimate:** This estimate assumes that the bill will be enacted by October 1, 2004. Almost all of the budgetary impact of the bill would be in the form of direct spending for veterans' housing and readjustment benefits. Table 2 summarizes those effects, and the individual provisions that would affect direct spending are described below. In total, CBO estimates that enacting this legislation would decrease direct spending by \$27 million over the 2005–2009 period and by \$9 million over the 2005–2014 period.

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF S. 2486

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
Changes in direct spending:					
Estimated Budget Authority .....	–38	–28	*	18	22
Estimated Outlays .....	–38	–28	*	18	22

Notes.—Estimated changes in discretionary spending are less than \$100,000 a year.

\* = less than \$500,000.

#### *Direct spending—housing*

Sections 101 through 104 would affect direct spending for veterans' housing programs. Together, CBO estimates that these provisions would lower direct spending by \$39 million in 2005, \$184 million over the 2005–2009 period, and \$259 million over the 2005–2014 period. In preparing this estimate, CBO accounted for the interactions between individual provisions. Costs or savings for those provisions, estimated as if they were enacted alone, are described below, along with the effect of interactions between the provisions.

*Increase and Index VA Home Loan Guaranty.* Section 101 would increase the maximum loan guarantee amount on Department of Veterans Affairs (VA) home loans by indexing this amount to the Freddie Mac conforming loan limit for single-family homes, which is adjusted annually to reflect home prices. Under current law, the maximum loan guaranty is \$60,000, which effectively creates a maximum loan amount of \$240,000. (For large loan amounts, VA can guarantee no more than 25 percent of the loan amount.) The provision would raise the maximum loan guarantee amount to 25 percent of the Freddie Mac conforming loan limit (\$333,700 in 2004). CBO estimates that this provision would lower direct spending on the veterans' housing program by \$208 million over the 2005–2009 period and \$288 million over the 2005–2014 period. These savings are the net effect of three individual program effects (two with savings and one with costs), as explained below.

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING UNDER S. 2486

	Outlays by fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
HOUSING <sup>1</sup>											
Spending Under Current Law .....	–2,036	–144	–140	–144	–149	–153	–152	–155	96	98	165
Proposed Changes .....	0	–39	–38	–35	–35	–36	–41	–42	*	1	8
Spending Under S. 2486 .....	–2,036	–183	–178	–179	–184	–189	–193	–197	96	99	173
VETERANS' READJUSTMENT BENEFITS											
Spending Under Current Law .....	2,665	2,852	3,008	3,166	3,315	3,458	3,590	3,737	3,853	3,974	4,098
Proposed Changes .....	0	1	10	35	53	58	52	26	5	5	5
Spending Under S. 2486 .....	2,665	2,853	3,018	3,201	3,368	3,516	3,642	3,763	3,858	3,979	4,103
Total Proposed Changes <sup>1</sup> .....	0	–38	–28	*	18	22	11	–16	5	6	13

<sup>a</sup> Five- and 10-year costs in the text differ slightly from a sum of the annual costs shown here because of rounding.

Notes.—Numbers may not add to totals because of rounding.

\* = less than \$500,000.

Based on information from VA and previous increases in the loan guaranty amount, CBO estimates that the bill would result in 11,000 new guaranteed loans a year over the 2005–2014 period. In addition, roughly 4,000 guaranteed loans each year would now be made with higher loan amounts—these would not be new borrowers, but veterans who would no longer need a downpayment (or as large a downpayment) to qualify for the VA loan guarantee. CBO and VA estimate that the VA loan guarantees currently have a negative subsidy rate of about –0.3 percent, reflecting relatively low default rates and up-front fees.

Because of that negative subsidy rate, CBO estimates that the added loans and higher loan amounts would lower direct spending on guaranteed loans by an average of \$42 million a year over the 2005–2011 period. Savings would end after 2011 because, under current law, certain loan fees expire in 2012, resulting in higher subsidy rates beginning in that year. Consequently, the increase in the volume of guaranteed loans under S. 2486 would raise direct spending by \$10 million over the 2012–2014 period.

Second, CBO expects some of those 15,000 loans will become delinquent and go to foreclosure. When a guaranteed loan goes into foreclosure, VA often acquires the property and issues a new direct loan (called a vendee loan) when the property is sold. Because the vendee loan program also has a negative subsidy rate, CBO estimates that the added vendee loans would lower direct spending by less than \$500,000 in 2005 and by \$3 million in 2014.

Finally, VA sells most vendee loans on the secondary mortgage market and guarantees their timely repayment. Based on information from VA, CBO estimates the subsidy cost of such loan guarantees would be less than \$500,000 through 2007 and would eventually reach \$4 million in 2014.

*Guarantees of Adjustable Rate Mortgages (ARMs).* Section 102 would reinstate VA's program of guarantees for adjustable rate mortgages through 2011. Under that program, interest rates on adjustable rate mortgages guaranteed by VA may change annually. Section 103 would extend through 2011 VA's current pilot program of guarantees for hybrid ARMs, which carry an initial interest rate

that is fixed for at least three years and then is subject to annual adjustments. That program is scheduled to expire at the end of 2005.

CBO expects that most veterans would prefer a hybrid ARM. Based on information from VA and experience with the current pilot program, we estimate that about 30,000 hybrid ARMs would be guaranteed each year and that these loans would be 5 percent larger and 10 percent more likely to default than fixed-rate mortgages. (CBO estimates that fixed-rate mortgages guaranteed by VA have a default rate of 7.1 percent and that the hybrid ARMs would have a default rate of 7.8 percent.) Under current law, most of those borrowers would receive VA guarantees for fixed-rate mortgages.

We also expect that about 1,000 ARMs would be guaranteed each year and that those loans would be 20 percent larger and 50 percent more likely to enter into default than fixed-rate mortgages; the projected default rate on those loans is 10.6 percent.

CBO estimates that enacting these provisions would increase direct spending by \$45 million over the 2005–2011 period. That sum represents the additional subsidy cost, as defined by the Federal Credit Reform Act, of guaranteeing the two kinds of ARMs. (That cost is the net present value of expected payments by the government to cover defaults and delinquencies, as well as other necessary payments, net of expected receipts to the government from any loan fees, penalties, and recoveries.)

*Effect of Interactions Between Housing Provisions.* The estimated cost of enacting sections 102 and 103 and the estimated savings from enacting section 101 are both increased by an interactive effect. CBO estimates that the net effect of this interaction would be additional savings of \$16 million over the 2005–2011 period.

*Loan Fees from Veterans Eligible for Compensation.* Section 104 would prohibit VA from charging loan fees for veterans who have been rated eligible for compensation through a pre-discharge examination. Under current law, a veteran must be receiving compensation in order to have the fees waived. Based on information from VA, CBO estimates that the enactment of this section would affect very few individuals and would have an insignificant effect on direct spending.

#### *Direct spending—Veterans' readjustment benefits*

S. 2486 contains several provisions that would enhance the education benefits available to reservists, veterans, and the spouses and survivors of certain veterans. CBO estimates that enacting these sections would increase direct spending for veterans' readjustment benefits by about \$1 million in 2005, \$157 million over the 2005–2009 period, and \$250 million over the 2005–2014 period (see Table 3). The cost for each individual provision is described below.



TABLE 3.—ESTIMATED CHANGES IN DIRECT SPENDING FOR VETERANS' READJUSTMENT BENEFITS UNDER S. 2486

Description of Provisions:	Outlays by fiscal year, in millions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Expanded Education Assistance for Certain Reservists .....	-1	6	31	48	53	47	21	0	0	0
Exams for College Admission and for Course Credit .....	1	3	3	4	4	4	4	4	4	4
Extension of Eligibility Period .....	1	1	1	1	1	1	1	1	1	1
Total Changes in Veterans' Readjustment Benefits .....	1	10	35	53	58	52	26	5	5	5

*Expanded Education Assistance for Certain Reservists.* Montgomery GI Bill (MGIB) education benefits are available to most active-duty servicemembers who agree to have \$1,200 withheld from their pay and who serve three years of continuous active duty. Reduced MGIB benefits are available to servicemembers who make the same contribution and serve two years. Under current law, reservists who serve two continuous years of active duty are also eligible for the reduced MGIB benefit, currently \$800 dollars a month for 36 months. Section 202 would extend eligibility for the two-year MGIB benefit to reservists who, after September 11, 2001, and before June 30, 2008, complete a total of two, noncontinuous years of active duty in any five-year period. Reservists who choose to participate in the MGIB program would have one year after completion of their two qualifying years of service to remit the \$1,200 contribution.

Based on information from the Department of Defense (DoD), CBO estimates that more than 25,000 reservists would accumulate two noncontinuous years of active duty and make the \$1,200 payments in the time period described above. Based on current usage rates, CBO assumes that 80 percent of those who make the \$1,200 payment would use the MGIB benefit, resulting in a few hundred new trainees in 2005, and an average of about 7,300 additional trainees a year over the 2006–2011 period. CBO also assumes that these new trainees would use this benefit to the same extent as current trainees, with an average benefit of about \$4,800 in 2005, increasing in subsequent years by a cost-of-living adjustment. After considering the \$1,200 contributions, CBO estimates that enactment of section 202 would decrease direct spending for readjustment benefits by \$1 million in 2005, and increase direct spending by about \$140 million over the 2005–2009 period, and \$205 million over the 2005–2011 period.

*Exams for College Admission and for Course Credit.* Section 204 would allow those veterans, survivors, and reservists who are eligible for veterans' education benefits to use those benefits to pay for tests given nationally for college admission and for course credit. Based on information from VA, CBO estimates that in 2005 about 190,000 veterans, reservists, and survivors and dependents will begin a course of study at a college or university. For several reasons, CBO believes that only about 20 percent of those students would use the proposed benefit. First, the Defense Activity for Non-Traditional Education Support (DANTES), currently offers most admissions and many for-credit exams at no cost to active-duty and

reserve servicemembers. Thus, members beginning their education within a few years of their separation from the service, or while in the reserves, are likely to take any necessary tests through DANTES at no charge. Furthermore, many veterans have taken some college-level courses while on active duty and thus are admitted to college based on their previous work and not on the results of entrance exams. Finally, close to half of the students will likely be attending two-year colleges, which do not normally require entrance exams.

Based on information from VA and DoD, CBO estimates that, in 2005, about 11,000 of these students would take one or more entrance or course-credit exams at an average cost of \$85 and would be reimbursed by VA under this provision. As the benefit becomes more widely known, CBO expects the number of students using the benefit would increase over several years to about 40,000 a year. Assuming the test fees increase with inflation to an average of about \$100 in 2014, CBO estimates enacting this proposal would increase direct spending for veterans' readjustment benefits by \$1 million in 2005, \$15 million over the 2005–2009 period, and \$35 million over the 2005–2014 period.

*Extension of Eligibility Period.* Under the Survivors and Dependents Education Assistance Program, spouses of veterans who are totally disabled as a result of a service-connected disability, and the unmarried, surviving spouses of servicemembers who died on active duty or of veterans who died of a service-connected disability, are eligible for 36 months of education assistance, at the current rate of \$788 a month. Eligible spouses and surviving spouses have 10 years from the date the veteran is rated as totally disabled or from the date of the servicemember's or veteran's death to use the benefit. Section 203 would increase the eligibility period to 20 years for the unmarried, surviving spouses of members who died on active duty.

Based on information from VA and DoD, CBO expects that under section 203, an additional 260 spouses would use this education benefit each year. However, because the 2004–2005 academic year would have started before the assumed enactment date for S. 2486, CBO expects only about 130 additional spouses would apply for this benefit in fiscal year 2005. Assuming these trainees pursue their education at the historical rate for spouses in the survivors and dependents education program, CBO estimates they would receive an average benefit of \$4,300 in 2005. Allowing for annual cost-of-living increases in the benefit amount, CBO estimates that enactment of section 203 would increase direct spending for veterans' readjustment benefits by about \$600,000 in 2005, \$5 million over the 2005–2009 period, and \$10 million over the 2005–2014 period.

*Collection of Contributions.* Reservists who serve two continuous years of active duty are eligible to participate in the MGIB program. DoD reports that about 10,000 reservists have recently met this requirement. Under current law, a reservist's pay cannot be reduced to pay the required \$1,200 contribution, so reservists who wish to participate in the MGIB program are currently obliged to make direct payments. Section 201 would allow DoD to collect those contributions through reductions in basic pay as is done for

active-duty members, or through other appropriate methods. Since the current method is cumbersome, CBO believes that simplifying payment of the contribution would increase the number of reservists who choose to participate in MGIB, but only slightly. The resulting increase in spending would not be significant.

*Spending subject to appropriation*

Section 302 would require the Veterans' Advisory Committee on Former Prisoners of War to submit a report in 2005, 2007, and 2009, to the Secretary of Veterans Affairs assessing the extent to which VA programs and activities are meeting the needs of former prisoners of war. Under current law, the Advisory Committee was only required to submit this report through 2003. According to information from the General Services Administration's Federal Advisory Committee Database, the cost to operate this committee is expected to total about \$100,000 in 2004. Since the committee would continue to operate and advise the Secretary absent this reporting requirement and since salaries, travel, and other expenses account for much of the cost of operating the committee, CBO estimates that implementing this provision would cost a small fraction of that annual cost over the 2005–2009 period, assuming appropriation of the necessary amounts.

Intergovernmental and private-sector impact: S. 2486 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimates: On July 13, 2004, CBO transmitted a cost estimate for H.R. 1716, the Veterans Earn and Learn Act of 2004, as reported by the House Committee on Veterans' Affairs on June 25, 2004. Section 301 of H.R. 1716 is identical to section 101 of S. 2486, as are the estimated savings.

On May 25, 2004, CBO transmitted a cost estimate for H.R. 4345, a bill to amend title 38, United States Code, to increase the maximum amount of home loan guarantee available under the home loan guarantee program of the Department of Veterans Affairs, and for other purposes, as ordered reported by the House Committee on Veterans' Affairs on May 19, 2004. On May 18, 2004, CBO transmitted a cost estimate for H.R. 4345, as introduced on May 12, 2004. Both versions of H.R. 4345 are identical to section 101 of S. 2486, as are the estimated savings.

On April 28, 2004, CBO transmitted a cost estimate for H.R. 4065, the Veterans Housing Affordability Act of 2004, as introduced on March 30, 2004. H.R. 4065 would raise the maximum loan guarantee amount to 22.5 percent of the Freddie Mac conforming loan limit. Section 101 of S. 2486 would raise the maximum loan guarantee amount to 25 percent of the Freddie Mac conforming loan limit. Thus, the estimated savings from enacting section 101 are somewhat larger.

Estimate prepared by: Federal Costs: Housing: Sunita D'Monte; Readjustment Benefits: Sarah T. Jennings; Veterans' Outreach: Dwayne M. Wright. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private Sector: Heidi Golding.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

## REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact that would be incurred in carrying out the Committee bill. The Committee finds that the Committee bill would not entail any regulation of individuals or businesses or result in any impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

## TABULATION OF VOTES CAST BY COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by members of the Committee on Veterans' Affairs at its July 22, 2004, meeting. On that date, the Committee, by unanimous voice vote, ordered S. 2486, as amended, a bill to amend title 38, United States Code, to improve and enhance education, housing, employment, medical, and other benefits for veterans and to improve and extend certain authorities relating to the administration or benefits for veterans, and for other purposes, as amended, reported favorably to the Senate.

## AGENCY REPORT

On June 22, 2004, Deputy Secretary of Veterans Affairs, the Honorable Gordon H. Mansfield, appeared before the Committee on Veterans' Affairs and submitted testimony on, among other things, S. 2486, as introduced, and also on the following additional bills from which provisions in S. 2486, as amended, are derived: S. 2099, S. 2522, and S. 2534. Excerpts from this statement are reprinted below:

STATEMENT OF GORDON H. MANSFIELD, DEPUTY  
SECRETARY OF VETERANS AFFAIRS

Good Afternoon Mr. Chairman and Members of the Committee, thank you for inviting me here today to present the Administration's views on a number of bills that would primarily affect Department of Veterans Affairs (VA) programs of veterans benefits and services.

\* \* \* \* \*

## S. 2486 AND S. 2522

Mr. Chairman, with one exception, we do not yet have cleared positions or cost estimates on the education benefit provisions in S. 2486. We will supply those for the record.

*Title I—Education Provisions*

\* \* \* \* \*

S. 2486 would require the VA Secretary to collect \$1200 from certain Reservists who wish to participate in the chapter 30 MGIB program before such individuals begin to receive educational assistance benefits under that program.

*Title II of S. 2486 and S. 2522—Housing Benefits*

Title II of S. 2486 would make several amendments to the VA housing loan program authorized by chapter 37 of title 38, United States Code.

Both S. 2486 and S. 2522 would increase the maximum VA housing loan guaranty, which is currently \$60,000. S. 2486 proposes to increase the guaranty to \$83,425. S. 2522 would index the maximum guaranty to 25 percent of the Federal Home Loan Mortgage Corporation (also known as “Freddie Mac”) single family conforming loan limit. Because the current Freddie Mac conforming limit is \$333,700, S. 2522 would also increase the VA guaranty to \$83,425. However, under S. 2522, the VA guaranty would be automatically adjusted annually in tandem with the Freddie Mac loan limit.

Neither the law nor regulations sets a maximum principal amount for a VA guaranteed home loan, so long as the total loan amount does not exceed the reasonable value of the property securing the loan, and the veteran’s present and anticipated income is sufficient to afford the loan payments. As a practical matter, requirements set by secondary market institutions limit the maximum VA loan to four times the guaranty. The current maximum guaranty of \$60,000 effectively limits VA housing loans to \$240,000. Increasing the maximum guaranty to \$83,425 would have the effect of increasing the maximum amount lenders are willing to finance to \$333,700. If the guaranty were indexed as proposed by S. 2522, in future years the effective maximum VA loan would remain at the Freddie Mac conforming limit.

VA is currently reviewing the results of an independent program evaluation of the VA Home Loan program. The maximum home loan guaranty was an element of this evaluation. We support the concept of increasing the guaranty level but reserve our opinion on this proposal until we can complete our analysis of the contractor’s final report.

VA estimates that increasing the guaranty to \$83,425 as proposed by S. 2486 would produce a loan-subsidy savings to the Veterans Housing Benefit Program Fund of approximately \$23.3 million in FY 2005, and a 10-year savings of approximately \$82.4 million. Indexing the guaranty as proposed by S. 2522 would produce similar savings.

*Adjustable Rate Mortgage (ARM) Program*

S. 2486 would revive and make permanent the Adjustable Rate Mortgage (ARM) program authorized by section 3707 of title 38, United States Code. Originally enacted in 1992, section 3707 authorized a 3-year demonstration program for VA to carry out an ARM program similar to the one administered by the Department of Housing and Urban Development under section 251 of the National Housing Act.

Due to concerns about the high cost of ARMs, the Congress allowed section 3707 to sunset on September 30,

1995. Similar concerns prevent VA from supporting enactment of this proposal. VA's past experience was that such ARMs had a 50 percent increased risk of default over fixed-rate VA guaranteed home loans.

We estimate that enactment of this provision would increase loan subsidy costs by \$4.0 million in Fiscal Year 2005, and have a 10-year cost of \$261.3 million.

#### *Hybrid ARM Demonstration Program*

S. 2486 would also make permanent the Hybrid ARM demonstration program authorized by section 3707A of title 38. Unlike traditional ARMs authorized by section 3707, which have an annual interest rate adjustment, Hybrid ARMs bear a fixed rate of interest for an initial period of at least 3 years. Thereafter, the interest rate is adjusted annually.

The current Hybrid ARM program was authorized for two years and will sunset September 30, 2005. VA only began guaranteeing Hybrid ARMS in the current fiscal year. These loans will not have an interest rate adjustment until late calendar year 2006 or early 2007 at the earliest. We do not believe VA has had sufficient experience to judge the viability of the Hybrid ARM program or assess its performance. Accordingly, we do not favor making this program permanent at this time. Rather, we suggest that the current Hybrid ARM demonstration program be extended by four years, i.e., through Fiscal Year 2009, to allow VA time to assess this new program.

This bill would modify the rules for interest rate adjustments on VA hybrid ARMs. Under current law, annual adjustments are limited to one percentage point, and the interest rate may never exceed five percentage points above the initial interest rate.

S. 2486 would limit the initial interest rate adjustment to one percentage point if the interest rate had remained fixed for three or fewer years. The bill would also provide that the maximum interest rate increase over the life of the loan would be set by VA. S. 2486 does not provide for any limit on individual annual interest rate adjustments after the initial one. Although we have no objection to providing more flexibility in interest rate adjustments, we do not favor the language of this proposal as drafted.

The initial interest rate for VA Hybrid ARMs must remain fixed for at least three years. As a practical matter, virtually no hybrid ARMs have the initial fixed interest rate period of exactly three years. Interest rate adjustments are normally made at the beginning of a month. To ease pooling of loans in the secondary market, it is very likely that VA hybrid ARMs closed by a particular lender over a period of several months would all have the same initial adjustment date. An initial fixed interest rate term such as three years, two months, and 18 days would be common. Therefore, limiting the initial adjustment to one percentage point only if the interest rate was fixed for three or fewer years is virtually meaningless. Further, this

section makes no mention of a limit on the initial adjustment if the fixed rate period exceeds three years.

We also believe the statute should limit the size of annual adjustments, or clearly provide that VA has the authority to set such limits by regulation. We would be pleased to work with your Committee staff to modify this proposal. VA estimates that enactment of this proposal would have a ten-year cost of approximately \$24.8 million.

#### *Waiver of VA Loan Fee*

S. 2486 would waive collection of the VA loan fee from veterans who are rated as eligible to receive compensation as a result of a pre-discharge disability examination. Currently, section 3729 of title 38, United States Code, imposes a fee on most persons who obtain or assume a loan guaranteed or made by VA. The fee is waived, however, for veterans who are receiving compensation or who, but for the receipt of retirement pay, would be entitled to compensation, and for surviving spouses of a veteran who died from a service-connected disability.

We believe waiving the fee for a veteran or service member who has been rated eligible for compensation but who purchases a home before payment of the benefit has begun is a logical extension of existing law. Therefore, VA supports enactment of this proposal. We estimate the associated costs of its enactment would be insignificant.

\* \* \* \* \*

#### *Title III—Medical and Other Amendments*

\* \* \* \* \*

Title III of S. 2486 contains a number of amendments to various medical and other program authorities.

#### *Technical Amendments to Title 5 of the United States Code*

S. 2486 would also make technical amendments to title 5, United States Code, to afford veterans with preference status the right to certain administrative and judicial redress in cases where an agency has allegedly violated their rights under a statute or regulation relating to veterans' preference. Although in principle we support this proposal inasmuch as it would generally enhance veterans' employment related rights, we defer to the views of the Office of Personnel Management.

\* \* \* \* \*

#### *Extensions of Certain Reporting Requirements*

S. 2486 would extend through July 1, 2009, the biennial reporting requirement of the Advisory Committee on Former Prisoners of War. It would also extend through December 31, 2009, the reporting requirements of VA's Special Medical Advisory Group. VA supports these proposals.

*Amendment to VA Definition of Minority Veterans*

Finally, S. 2486 would amend VA's definition of minority veterans in section 544 of title 38, United States Code, to comport with the Office of Management and Budget's (OMB) revised Standards for the Classification of Federal Data of Race and Ethnicity (1997). We support this proposal, which is identical to one submitted by the Department last year. The proposal is needed to bring the definitions applicable to minority veterans in line with those used in the Census 2000. The proposed changes would not change minority veterans' eligibility or entitlement to existing or future benefits.

\* \* \* \* \*

## S. 2099

S. 2099 would entitle Selected Reservists who, on or after September 11, 2001, serve on active duty in the Armed Forces for not less than two years in any five-year period, and who meet the other eligibility criteria, to basic educational assistance under the chapter 30 Montgomery GI Bill program. The two-year period required for eligibility would not have to be continuous service, but could be an aggregate of one or more periods of service. These MGIB participants would receive one month of educational assistance benefits for each month of active duty served after September 11, 2001, as part of the two-year eligibility criteria. The amount of the benefit paid would be the same as that of an individual whose entitlement is based on an obligated active duty period of two years, currently \$800 monthly for a program of education pursued on a full-time basis. The Secretaries of the various military components of the Armed Forces are charged with informing Selected Reservists of the availability of the benefits provided by this bill.

Mr. Chairman, the Department has already implemented provisions of chapter 30 MGIB education benefits in a manner that recognizes benefits for Reservists called or ordered to active duty and who serve a continuous period of active duty aggregating two years or more, provided they otherwise meet the MGIB eligibility criteria. However, we do not yet have a cleared position or cost estimate on this specific proposal, but will supply those to the Committee as soon as possible.

\* \* \* \* \*

## S. 2534

Mr. Chairman, we do not yet have cleared positions or cost estimates on S. 2524, a proposal to establish a War-Related Blast Injury Center, or S. 2534, a bill to improve veterans education and housing benefits. We will supply those for the record.

\* \* \* \* \*



CHANGES IN EXISTING LAW MADE BY THE COMMITTEE BILL, AS  
REPORTED

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Committee bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## TITLE 5, UNITED STATES CODE

\* \* \* \* \*

### CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT

#### Subchapter I—Examination, Certification, and Appointment

\* \* \* \* \*

#### § 3330a. Preference eligibles; administrative redress

(a)(1)(A) A preference eligible who alleges that an agency has violated such individual's rights under any statute or regulation relating to veterans' preference may file a complaint with the Secretary of Labor.

(B) *A veteran described in section 3304(f)(1) who alleges that an agency has violated such section with respect to such veteran may file a complaint with the Secretary of Labor.*

\* \* \* \* \*

#### § 3330b. Preference eligibles; judicial redress

(a) In lieu of continuing the administrative redress procedure provided under section 3330a(d), a preference eligible, *or a veteran described by section 3330a(a)(1)(B) with respect to a violation described by such section*, may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

\* \* \* \* \*

## TITLE 38, UNITED STATES CODE

\* \* \* \* \*

### CHAPTER 5—AUTHORITY AND DUTIES OF THE SECRETARY

\* \* \* \* \*

#### Subchapter III—Advisory Committees

\* \* \* \* \*

**§ 541. Advisory Committee on Former Prisoners of War**

\* \* \* \* \*

(c)(1) Not later than July 1 of each odd-numbered year through [2003] 2009, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are former prisoners of war. Each such report shall include—

\* \* \* \* \*

**§ 544. Advisory Committee on Minority Veterans**

\* \* \* \* \*

[(d) In this section, the term “minority group member” means an individual who is—

[(1) Asian American;

[(2) Black;

[(3) Hispanic;

[(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or

[(5) Pacific-Islander American.]]

(d) *In this section, the term “minority group member” means an individual who is—*

*(1) American Indian or Alaska Native;*

*(2) Asian;*

*(3) Black or African American;*

*(4) Native Hawaiian or other Pacific Islander; or*

*(5) of Hispanic, Latino, or Spanish origin.*

\* \* \* \* \*

**CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM**

**Subchapter I—Purposes; Definitions**

\* \* \* \* \*

**§ 3011. Basic educational assistance entitlement for service on active duty**

\* \* \* \* \*

(b) **[The basic pay]** (1) *Except as provided by paragraph (2), the basic pay* of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (c)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay.

(2) *In the case of an individual covered by paragraph (1) who is a Reserve, the Secretary of Defense shall collect from the individual an amount equal to \$1,200 before the commencement by the individual of the use of entitlement to basic educational assistance under this chapter. The Secretary of Defense may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.*

(3) Any amount by which the basic pay of an individual is reduced under **[this chapter]** *this subsection* shall revert to the Treasury and shall not, for purposes of any Federal law, be consid-

ered to have been received by or to be within the control of such individual.

\* \* \* \* \*

**§ 3012. Basic educational assistance entitlement for service in the Selected Reserve**

(a) Except as provided in subsection (d) of this section, each individual—

(1) who—

\* \* \* \* \*

(B) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and was on active duty at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—

(i) after June 30, 1985, serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(ii) after June 30, 1985, subject to subsection (b) of this section and beginning within one year after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned; **[or]**

(C) as of December 31, 1989, was eligible for educational assistance under chapter 34 of this title and—

(i) was not on active duty on October 19, 1984

(ii) reenlists or reenters on a period of active duty on or after October 19, 1984; and

(iii) on or after July 1, 1985,

(I) serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(II) subject to subsection (b) of this section and beginning within one year after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned; or

(D) *during any five-year period beginning on or after September 11, 2001, and ending on or before June 20, 2008, while in the Selected Reserve, serves on active duty in the Armed Forces for one or more periods (whether continuous or otherwise) aggregating not less than two years of service on active duty during such period;*

\* \* \* \* \*

(c) **[The basic pay]** (1) *Except as provided in paragraph (2), the basic pay* of any individual described in subsection (a)(1)(a) of this section who does not make an election under subsection (d)(1) of

this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay.

(2) *In the case of an individual covered by paragraph (1) who is a Reserve, the Secretary of Defense shall collect from the individual an amount equal to \$1,200 before the commencement by the individual of the use of entitlement to basic educational assistance under this chapter. The Secretary of Defense may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.*

(3) Any amount by which the basic pay of an individual is reduced under [this chapter] *this subsection* shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.

(4)(A) *In the case of an individual who becomes entitled to basic educational assistance under this chapter by reason of subsection (a)(1)(D), the Secretary of Defense shall collect from the individual an amount equal to \$1,200 not later than one year after the completion by the individual of the two years of service on active duty providing the basis for such entitlement.*

(B) *An individual described in subparagraph (A) shall not be entitled to basic educational assistance as described in that subparagraph unless an amount equal to \$1,200 is first collected from the individual as required under that subparagraph.*

(C) *The Secretary of Defense may collect amounts under subparagraph (A) through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.*

\* \* \* \* \*

### § 3013. Duration of basic educational assistance

\* \* \* \* \*

(b) Subject to section 3695 of this title and subsection (d) of this section, each individual entitled to basic educational assistance under section 3012 of this title [is entitled to (1) one month of educational assistance benefits under this chapter for each month of continuous active duty served by such individual after June 30, 1985, as part of the obligated period of active duty on which such entitlement is based in the case of an individual described in section 3012(a)(1)(A) of this title, or in the case of an individual described in section 3012(a)(1)(B) of this title, after June 30, 1985, and (2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve “after the applicable date specified in clause (1) of this subsection (other than any month in which the individual served on active duty).] *is entitled to—*

(1) *one month of educational assistance benefits under this chapter—*

(A) *in the case of an individual described in section 3012(a)(1)(A) of this title, for each month of continuous active duty served by such individual after June 30, 1985, as part of the obligated period of active duty on which such entitlement is based;*

(B) in the case of an individual described in section 3012(a)(1)(B) of this title, for each month of continuous active duty served by such individual after June 30, 1985; or  
 (C) in the case of an individual described in section 3012(a)(1)(D) of this title, for each month of active duty served by such individual after September 11, 2001, and before July 1, 2008, as part of the aggregate period of active duty on which such entitlement is based; and

(2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve after the applicable date specified in paragraph (1) of this subsection (other than any month in which the individual served on active duty).

\* \* \* \* \*

### § 3015. Amount of basic educational assistance

(a) The amount of payment of educational assistance under this chapter is subject to section 3011 of this title. Except as otherwise provided in this section, in the case of an individual entitled to an educational assistance allowance under this chapter whose obligated period of active duty on which such entitlement is based is three years, a basic educational assistance allowance under this subchapter shall be paid—

(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

\* \* \* \* \*

(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under **[(subsection (h))] subsection (i)**; or—

\* \* \* \* \*

(b) In the case of an individual entitled to an educational assistance allowance under section 3011 or 3018 of this title whose obligated period of active duty on which such entitlement is based is two years, a basic educational assistance allowance under this chapter shall (except as provided in the succeeding subsections of this section) be paid

(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

\* \* \* \* \*

(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under **[(subsection (h))] subsection (i)**; or

\* \* \* \* \*

(h) *In the case of an individual entitled to an educational assistance allowance under section 3012(a)(1)(D) of this title, the amount of basic educational assistance payable under this chapter is the amount determined under subsection (b) of this section.*

**[(h)](i)(1)** With respect to any fiscal year, the Secretary shall provide a percentage increase in the rates payable under subsections (a)(1) and (b)(1) equal to the percentage by which—

(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

(2) Any increase under paragraph (1) in a rate with respect to a fiscal year after fiscal year 2004 and before fiscal year 2014 shall be rounded down to the next lower whole dollar amount. Any such increase with respect to a fiscal year after fiscal year 2013 shall be rounded to the nearest whole dollar amount.

\* \* \* \* \*

#### **Subchapter IV—Time Limitation for Use of Eligibility and Entitlement; General and Administrative Provisions**

\* \* \* \* \*

#### **§ 3032. Limitations on educational assistance for certain individuals**

\* \* \* \* \*

(g)(1) *Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.*

(2) *The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.*

(3) *In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.*

\* \* \* \* \*

### **CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE**

\* \* \* \* \*

#### **Subchapter III—Entitlement; Duration**

\* \* \* \* \*

#### **§ 3232. Duration; limitations**

\* \* \* \* \*

(d)(1) *Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in 3452(b) of this title is the amount of the fee charged for the test.*

(2) *The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.*

(3) *In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.*

\* \* \* \* \*

## CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

### Subchapter I—Purpose; Definitions

\* \* \* \* \*

#### § 3452. Definitions

For the purposes of this chapter and chapter 36 of this title—

\* \* \* \* \*

(b) The term “program of education” means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field. Such term also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 7(i)(1) of the Small Business Act (15 U.S.C. 636(i)(1)). Such term also includes licensing or certification tests, the successful completion of which demonstrates an individual's possession of the knowledge or skill required to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession, provided such tests and the licensing or credentialing organizations or entities that offer such tests are approved by the Secretary in accordance with section 3689 of this title. Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses. *Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the SAT, LSAT, GRE, and GMAT exams) and national tests providing an opportunity for course credit at institutions of higher learning (such as the AP exam).*

\* \* \* \* \*

#### § 3482. Computation of educational assistance allowances

\* \* \* \* \*

(i)(1) *Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.*

(2) *The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.*

(3) *In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.*

\* \* \* \* \*

## CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

### Subchapter I—Definitions

\* \* \* \* \*

#### § 3501. Definitions

(a) For the purpose of this chapter and chapter 36—

\* \* \* \* \*

(5) The term “program of education” means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. Such term also includes any preparatory course described in section 3002(3)(B) of this title. Such term also includes licensing or certification tests, the successful completion of which demonstrates an individual's possession of the knowledge or skill required to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession, provided such tests and the licensing or credentialing organizations or entities that offer such tests are approved by the Secretary in accordance with section 3689 of this title. *Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the SAT, LSAT, GRE, and GMAT exams) and national tests providing an opportunity for course credit at institutions of higher learning (such as the AP exam).*

\* \* \* \* \*

### Subchapter II—Eligibility and Entitlement

\* \* \* \* \*

#### § 3512. Periods of eligibility

\* \* \* \* \*

(b)(1)(A) Except as provided in [subparagraph (B)] *in subparagraph (B) or (C)*, a person made eligible by subparagraph (B) or (D)



of section 3501(a)(1) of this title may be afforded educational assistance under this chapter during the 10-year period beginning on the date (as determined by the Secretary) the person becomes an eligible person within the meaning of section 3501(a)(1)(B), 3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii) of this title. In the case of a surviving spouse made eligible by clause (ii) of section 3501(a)(1)(D) of this title, the 10-year period may not be reduced by any earlier period during which the person was eligible for educational assistance under this chapter as a spouse made eligible by clause (i) of that section.

(B) \* \* \*

(C) *Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph who is made eligible under section 3501(a)(1)(B) of this title by reason of the death of a person on active duty may be afforded educational assistance under this chapter during the 20-year period beginning on the date (as determined by the Secretary) such person become an eligible person within the meaning of such section.*

\* \* \* \* \*

#### **Subchapter IV—Payments to Eligible Persons**

\* \* \* \* \*

#### **§ 3532. Computation of educational assistance allowance**

\* \* \* \* \*

(g)(1) *Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3501(a)(5) of this title is the amount of the fee charged for the test.*

(2) *The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid to such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.*

(3) *In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.*

\* \* \* \* \*

### **PART III—READJUSTMENT AND RELATED BENEFITS**

\* \* \* \* \*

#### **CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS**

\* \* \* \* \*

**§ 3703. Basic provisions relating to loan guaranty and insurance**

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 3710 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

(i)(I) in the case of any loan of not more than \$45,000, 50 percent of the loan;

(II) in the case of any loan of more than \$45,000, but not more than \$56,250, \$22,500;

(III) except as provided in subclause (IV) of this clause, in the case of any loan of more than \$56,250, the lesser of \$36,000 or 40 percent of the loan; or

(IV) in the case of any loan of more than \$144,000 for a purpose specified in clause (1), (2), (3), (6), or (8) of section 3710(a) of this title, the lesser of **[\$60,000]** *the maximum guaranty amount (as defined in subparagraph (C))* or 25 percent of the loan; or

(ii) the maximum amount of guaranty entitlement available to the veteran as specified in subparagraph (B) of this paragraph.

(B) The maximum amount of guaranty entitlement available to a veteran for purposes specified in section 3710 of this title shall be \$36,000, or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, **[\$60,000]** *the maximum guaranty amount (as defined in subparagraph (C))*, reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 3702(b) of this title.

(C) *In this paragraph, the term “maximum guaranty amount” means the dollar amount that is equal to 25 percent of the Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.*

\* \* \* \* \*

**§ 3707. Adjustable rate mortgages**

(a) The Secretary shall carry out a demonstration project under this section **[during fiscal years 1993, 1994, and 1995]** *during fiscal years 1993 through 2011* for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act [12 USCS § 1715z–16].

\* \* \* \* \*

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

(a) The Secretary shall carry out a demonstration project under this section **[during fiscal years 2004 and 2005]** *during fiscal years 2004 through 2011* for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under sec-

tion 251 of the National Housing Act [12 USCS § 1715z–16] in accordance with the provisions of this section with respect to hybrid adjustable rate mortgages described in subsection (b).

(b) \* \* \*

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

(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis;

[(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and]

(3) *in the case of the initial interest rate adjustment—*

*(A) if the initial interest rate remained fixed for less than 5 years, be limited to a maximum increase or decrease of 1 percentage point; or*

*(B) if the initial interest rate remained fixed for 5 years or more, be limited to a maximum increase or decrease of such percentage point or points as the Secretary may prescribe;*

*(4) in the case of any single annual interest rate adjustment after the initial interest rate adjustment, be limited to a maximum increase or decrease of 1 percentage point; and*

[(4)] (5) be limited, over the term of the mortgage, to a maximum increase of [5 percentage points above the initial contract interest rate.] *such number of percentage points as the Secretary shall prescribe for purposes of this section.*

\* \* \* \* \*

### § 3729. Loan fee

(a) \* \* \*

\* \* \* \* \*

(c) WAIVER OF FEE.—(1) A fee may not be collected under this section from a veteran who is receiving compensation (or who, but for the receipt of retirement pay, would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

(2) *A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.*

\* \* \* \* \*