

Bosnia. I was privileged to visit those Guardsmen in Bosnia over this past Thanksgiving week.

The National Guard is critically important to the national security of the United States, and that has never been more true than in the war against terrorism we are involved in today. We honor the commitment and sacrifices of the 458,400 citizen soldiers and airmen of the National Guard, their families, their employers, and their communities. I congratulate the National Guard, all its personnel, and particularly Major General Claude Williams, the Adjutant General of the Virginia National Guard, and all soldiers and airmen of the Virginia National Guard on this important milestone.

Mr. DAYTON. Mr. President, I rise today to acknowledge the 365th anniversary of a true American institution: The National Guard. Now, perhaps more than ever, it is fitting to pay a special anniversary tribute to our citizen-soldiers, the oldest of America's armed forces.

The National Guard dates back to the first Americans. Responsible for their own defense, the colonists drew on English military tradition and organized their able-bodied male citizens into militias.

These early colonial militias protected citizens from Indian attacks, foreign adversaries and eventually successfully waged our Nation's war for independence. Following independence, the framers of the Constitution empowered Congress to "provide for organizing, arming, and disciplining the militia." Thus commenced the historic dual role of the National Guard as a state and a Federal force.

My home State of Minnesota formed a Territorial Enrolled Militia in 1850, and in April 1856 the first uniformed, volunteer company was formed in St. Paul. Called the Minnesota Pioneer Guards, it was a source of pride and inspired the subsequent formation of nine sister companies in St. Paul, St. Anthony, Minneapolis, and in river towns from Stillwater to Winona. From these roots grew the Minnesota National Guard on which we depend so greatly. Each State has a similar, distinguished inspirational story.

Throughout the 19th Century, the size of the regular U.S. Army was small. The militia provided the bulk of the troops during the Mexican War, the early months of the Civil War, and the Spanish-American War. The National Guard comprised 40 percent of American troops deployed in France during World War I. In World War II, National Guard units were among the first to deploy overseas and the first to fight. Following World War II, National Guard aviation units, some of them dating back to World War I, because the Air National Guard, the Nation's newest Reserve component.

September 11 ushered in a new chapter in the storied history of our heroes in the National Guard. We called on them to secure our Nations' most vital

infrastructure from terrorists committed to evil and violence. They did not hesitate to leave their jobs and families to answer the call to protect the American freedoms we hold so dear.

Today the National Guard continues to provide the States' trained and ready units equipped to protect life and property at home. And it stands ready to defend the United States and its interests all over the globe. Whether called upon by governor or President, from the village streets of Bosnia, to the terminals of our own Minneapolis-St. Paul International Airport, our co-workers and neighbors in the National Guard continue to answer the call to defend freedom.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 93) was agreed to.

The preamble was agreed to.

(The text of the concurrent resolution with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

VETERANS EDUCATION AND BENEFITS EXPANSION ACT OF 2001

Mr. REID. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 1291).

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 1291) entitled "An Act to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI Bill", with the following House amendment to Senate amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the "Veterans Education and Benefits Expansion Act of 2001".

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

Sec. 1. Short title; table of contents.

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

TITLE I—EDUCATIONAL ASSISTANCE PROVISIONS

Sec. 101. Increase in rates of basic educational assistance under Montgomery GI Bill.

Sec. 102. Increase in rates of survivors' and dependents' educational assistance.

Sec. 103. Restoration of certain education benefits of individuals being ordered to active duty.

Sec. 104. Accelerated payments of educational assistance under Montgomery GI Bill for education leading to employment in high technology industry.

Sec. 105. Eligibility for Montgomery GI Bill benefits of certain additional Vietnam era veterans.

Sec. 106. Increase in maximum allowable annual Senior ROTC educational assistance for eligibility for benefits under the Montgomery GI Bill.

Sec. 107. Expansion of work-study opportunities.

Sec. 108. Eligibility for survivors' and dependents' educational assistance of spouses and surviving spouses of veterans with total service-connected disabilities.

Sec. 109. Expansion of special restorative training benefit to certain disabled spouses or surviving spouses.

Sec. 110. Inclusion of certain private technology entities in definition of educational institution.

Sec. 111. Distance education.

TITLE II—COMPENSATION AND PENSION PROVISIONS

Sec. 201. Modification and extension of authorities on presumption of service-connection for herbicide-related disabilities of Vietnam veterans.

Sec. 202. Payment of compensation for Persian Gulf War veterans with certain chronic disabilities.

Sec. 203. Preservation of service connection for undiagnosed illnesses to provide for participation in research projects by Persian Gulf War veterans.

Sec. 204. Repeal of limitation on payments of benefits to incompetent institutionalized veterans.

Sec. 205. Extension of round-down requirement for compensation cost-of-living adjustments.

Sec. 206. Expansion of presumptions of permanent and total disability for veterans applying for nonservice-connected pension.

Sec. 207. Eligibility of veterans 65 years of age or older for veterans' pension benefits.

TITLE III—TRANSITION AND OUTREACH PROVISIONS

Sec. 301. Authority to establish overseas veterans assistance offices to expand transition assistance.

Sec. 302. Timing of pre-separation counseling.

Sec. 303. Improvement in education and training outreach services for separating servicemembers and veterans.

Sec. 304. Improvement of veterans outreach programs.

TITLE IV—HOUSING MATTERS

Sec. 401. Increase in home loan guaranty amount for construction and purchase of homes.

Sec. 402. Native American veteran housing loan pilot program.

Sec. 403. Modification of loan assumption notice requirement.

Sec. 404. Increase in assistance amount for specially adapted housing.

Sec. 405. Extension of other housing authorities.

Sec. 406. Clarifying amendment relating to eligibility of members of the Selected Reserve for housing loans.

TITLE V—OTHER MATTERS

Sec. 501. Increase in burial benefits.

Sec. 502. Government markers for marked graves at private cemeteries.

Sec. 503. Increase in amount of assistance for automobile and adaptive equipment for certain disabled veterans.

Sec. 504. Extension of limitation on pension for certain recipients of medicaid-covered nursing home care.

- Sec. 505. Prohibition on provision of certain benefits with respect to persons who are fugitive felons.
- Sec. 506. Limitation on payment of compensation for veterans remaining incarcerated since October 7, 1980.
- Sec. 507. Elimination of requirement for providing a copy of notice of appeal to the Secretary of Veterans Affairs.
- Sec. 508. Increase in fiscal year limitation on number of veterans in programs of independent living services and assistance.
- Sec. 509. Technical and clerical amendments.
- TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**
- Sec. 601. Facilitation of staggered terms of judges through temporary expansion of the Court.
- Sec. 602. Repeal of requirement for written notice regarding acceptance of reappointment as condition to retirement from the Court.
- Sec. 603. Termination of notice of disagreement as jurisdictional requirement for the Court.
- Sec. 604. Registration fees.
- Sec. 605. Administrative authorities.

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

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

TITLE I—EDUCATIONAL ASSISTANCE PROVISIONS

SEC. 101. INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) IN GENERAL.—(1) Paragraph (1) of section 3015(a) is amended to read as follows:

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

“(A) for months beginning on or after January 1, 2002, \$800;

“(B) for months occurring during fiscal year 2003, \$900;

“(C) for months occurring during fiscal year 2004, \$985; and

“(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or”.

(2) Paragraph (1) of section 3015(b) is amended to read as follows:

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

“(A) for months beginning on or after January 1, 2002, \$650;

“(B) for months occurring during fiscal year 2003, \$732;

“(C) for months occurring during fiscal year 2004, \$800; and

“(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or”.

(b) CPI ADJUSTMENT.—No adjustment in rates of educational assistance shall be made under section 3015(h) of title 38, United States Code, for fiscal years 2003 and 2004.

SEC. 102. INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3532 is amended—

(1) in subsection (a)(1)—

(A) by striking “\$588” and inserting “\$670”;

(B) by striking “\$441” and inserting “\$503”;

and

(C) by striking “\$294” and inserting “\$335”;

(2) in subsection (a)(2), by striking “\$588” and inserting “\$670”;

(3) in subsection (b), by striking “\$588” and inserting “\$670”;

and

(4) in subsection (c)(2)—

(A) by striking “\$475” and inserting “\$541”;

(B) by striking “\$356” and inserting “\$406”;

and

(C) by striking “\$238” and inserting “\$271”.

(b) CORRESPONDENCE COURSES.—Section 3534(b) is amended by striking “\$588” and inserting “\$670”.

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) is amended—

(1) by striking “\$588” and inserting “\$670”;

and

(2) by striking “\$184” each place it appears and inserting “\$210”.

(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) is amended—

(1) by striking “\$428” and inserting “\$488”;

(2) by striking “\$320” and inserting “\$365”;

(3) by striking “\$212” and inserting “\$242”;

and

(4) by striking “\$107” and inserting “\$122”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2002, and shall apply with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.

SEC. 103. RESTORATION OF CERTAIN EDUCATION BENEFITS OF INDIVIDUALS BEING ORDERED TO ACTIVE DUTY.

(a) IN GENERAL.—Sections 3013(f)(2)(A), 3231(a)(5)(B)(i), and 3511(a)(2)(B)(i) are each amended by striking “, in connection with the Persian Gulf War, to serve on active duty under section 672 (a), (d), or (g), 673, 673b, or 688 of title 10;” and inserting “to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10;”.

(b) INCREASE IN CHAPTER 35 DELIMITING PERIOD.—Section 3512 is amended by adding at the end the following new subsection:

“(h) Notwithstanding any other provision of this section, if an eligible person, during the delimiting period otherwise applicable to such person under this section, serves on active duty pursuant to an order to active duty issued under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, such person shall be granted an extension of such delimiting period for the length of time equal to the period of such active duty plus four months.”.

(c) APPLICATION TO CHAPTER 31.—(1) Section 3105 is amended by adding at the end the following new subsection:

“(e)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of a subsistence allowance and other assistance described in paragraph (2) shall not—

“(A) be charged against any entitlement of any veteran under this chapter; or

“(B) be counted toward the aggregate period for which section 3695 of this title limits an individual's receipt of allowance or assistance.

“(2) The payment of the subsistence allowance and other assistance referred to in paragraph (1) is the payment of such an allowance or assistance for the period described in paragraph (3) to a veteran for participation in a vocational rehabilitation program under this chapter if the Secretary finds that the veteran had to suspend or discontinue participation in such vocational rehabilitation program as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

“(3) The period for which, by reason of this subsection, a subsistence allowance and other assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall be the period of participation in the vocational rehabilitation program for which the veteran failed to receive credit or with respect to which the vet-

eran lost training time, as determined by the Secretary.”.

(2) Section 3103 is amended by adding at the end the following new subsection:

“(e) In any case in which the Secretary has determined that a veteran was prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility otherwise prescribed in this section as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, such period of eligibility shall not run for the period of such active duty service plus four months.

(d) CONFORMING AMENDMENTS.—Sections 3013(f)(2)(B) and 3231(a)(5)(B)(ii) of such title are each amended by striking “, in connection with such War.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 11, 2001.

SEC. 104. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.

(a) IN GENERAL.—(1) Chapter 30 is amended by inserting after section 3014 the following new section:

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

“(a) An individual described in subsection (b) who is entitled to basic educational assistance under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

“(b) An individual described in this subsection is an individual who is—

“(1) enrolled in an approved program of education that leads to employment in a high technology industry (as determined pursuant to regulations prescribed by the Secretary); and

“(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

“(c)(1) The amount of the accelerated payment of basic educational assistance made to an individual making an election under subsection (a) for a program of education shall be the lesser of—

“(A) the amount equal to 60 percent of the established charges for the program of education; or

“(B) the aggregate amount of basic educational assistance to which the individual remains entitled under this chapter at the time of the payment.

“(2) In this subsection, the term ‘established charges’, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

“(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

“(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

“(3) The educational institution providing the program of education for which an accelerated payment of basic educational assistance allowance is elected by an individual under subsection (a) shall certify to the Secretary the

amount of the established charges for the program of education.

“(d) An accelerated payment of basic educational assistance made to an individual under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary receives a certification from the educational institution regarding—

“(1) the individual’s enrollment in and pursuit of the program of education; and

“(2) the amount of the established charges for the program of education.

“(e)(1) Except as provided in paragraph (2), for each accelerated payment of basic educational assistance made to an individual under this section, the individual’s entitlement to basic educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

“(2) If the monthly rate of basic educational assistance allowance otherwise payable to an individual under section 3015 of this title increases during the enrollment period of a program of education for which an accelerated payment of basic educational assistance is made under this section, the charge to the individual’s entitlement to basic educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the matter provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary.

“(f) The Secretary may not make an accelerated payment under this section for a program of education to an individual who has received an advance payment under section 3680(d) of this title for the same enrollment period.

“(g) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under this section.”.

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 3014 the following new item:

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

(b) RESTATEMENT AND ENHANCEMENT OF CERTAIN ADMINISTRATIVE AUTHORITIES.—Subsection (g) of section 3680 is amended to read as follows:

“DETERMINATION OF ENROLLMENT, PURSUIT, AND ATTENDANCE

“(g)(1) The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define with respect to an eligible veteran and eligible person the following:

“(A) Enrollment in a course or program of education or training.

“(B) Pursuit of a course or program of education or training.

“(C) Attendance at a course or program of education or training.

“(2) The Secretary may withhold payment of benefits to an eligible veteran or eligible person until the Secretary receives such proof as the Secretary may require of enrollment in and satisfactory pursuit of a program of education by the eligible veteran or eligible person. The Secretary shall adjust the payment withheld, when necessary, on the basis of the proof the Secretary receives.

“(3) In the case of an individual other than an individual described in paragraph (4), the Secretary may accept the individual’s monthly

certification of enrollment in and satisfactory pursuit of a program of education as sufficient proof of the certified matters.

“(4) In the case of an individual who has received an accelerated payment of basic educational assistance under section 3014A of this title during an enrollment period for a program of education, the Secretary may accept the individual’s certification of enrollment in and satisfactory pursuit of the program of education as sufficient proof of the certified matters if the certification is submitted after the enrollment period has ended.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2002, and shall apply with respect to enrollments in courses or programs of education or training beginning on or after that date.

SEC. 105. ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS.

(a) ACTIVE DUTY PROGRAM.—Section 3011(a)(1) is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by adding “or” at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

“(C) as of December 31, 1989, was eligible for educational assistance benefits 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, either—

“(I) serves at least three years of continuous active duty in the Armed Forces; or

“(II) is discharged or released from active duty (aa) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph, (bb) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (cc) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;”.

(b) SELECTED RESERVE PROGRAM.—Section 3012(a)(1) is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by adding “or” at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

“(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;”.

(c) TIME FOR USE OF ENTITLEMENT.—Section 3031 is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(3) in the case of an individual who becomes entitled to such assistance under section 3011(a)(1)(C) or 3012(a)(1)(C) of this title, on the date of the enactment of this paragraph.”; and

(2) in subsection (e)(1), by striking “section 3011(a)(1)(B) or 3012(a)(1)(B)” and inserting “section 3011(a)(1)(B), 3011(a)(1)(C), 3012(a)(1)(B), or 3012(a)(1)(C)”.

SEC. 106. INCREASE IN MAXIMUM ALLOWABLE ANNUAL SENIOR ROTC EDUCATIONAL ASSISTANCE FOR ELIGIBILITY FOR BENEFITS UNDER THE MONTGOMERY GI BILL.

(a) IN GENERAL.—Sections 3011(c)(3)(B) and 3012(d)(3)(B) are each amended by striking “\$2,000” and inserting “\$3,400”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to educational assistance allowances paid under chapter 30 of title 38, United States Code, for months beginning after the date of the enactment of this Act.

SEC. 107. EXPANSION OF WORK-STUDY OPPORTUNITIES.

(a) FIVE-YEAR EXPANSION OF QUALIFYING WORK-STUDY ACTIVITIES.—Subsection (a) of section 3485 is amended to read as follows:

“(a)(1) Individuals utilized under the authority of subsection (b) shall be paid an additional educational assistance allowance (hereinafter in this section referred to as ‘work-study allowance’). Such allowance shall be paid in return for an individual’s entering into an agreement described in paragraph (3).

“(2) Such work-study allowance shall be paid in an amount equal to the product of—

“(A) the applicable hourly minimum wage; and

“(B) the number of hours worked during the applicable period.

“(3) An agreement described in this paragraph is an agreement of an individual to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with a qualifying work-study activity.

“(4) For the purposes of this section, the term ‘qualifying work-study activity’ means any of the following:

“(A) The outreach services program under subchapter II of chapter 77 of this title as carried out under the supervision of a Department employee or, during the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, outreach services to servicemembers and veterans furnished by employees of a State approving agency.

“(B) The preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Department.

“(C) The provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, including, during the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, the provision of such care to veterans in a State home for which payment is made under section 1741 of this title.

“(D) Any other activity of the Department as the Secretary determines appropriate.

“(E) In the case of an individual who is receiving educational assistance under chapter 1606 of title 10, an activity relating to the administration of that chapter at Department of Defense, Coast Guard, or National Guard facilities.

“(F) During the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, an

activity relating to the administration of a national cemetery or a State veterans' cemetery.

"(5) An individual may elect, in a manner prescribed by the Secretary, to be paid in advance an amount equal to 40 percent of the total amount of the work-study allowance agreed to be paid under the agreement in return for the individual's agreement to perform the number of hours of work specified in the agreement (but not more than an amount equal to 50 times the applicable hourly minimum wage).

"(6) For the purposes of this subsection and subsection (e), the term 'applicable hourly minimum wages' means—

"(A) the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)); or

"(B) the hourly minimum wage under comparable law of the State in which the services are to be performed, if such wage is higher than the wage referred to in subparagraph (A) and the Secretary has made a determination to pay such higher wage."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to agreements entered into under section 3485 of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 108. ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE OF SPOUSES AND SURVIVING SPOUSES OF VETERANS WITH TOTAL SERVICE-CONNECTED DISABILITIES.

(a) **DESIGNATION OF ELIGIBILITY.**—Section 3501(a)(1)(D) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by inserting "(ii)" after "or".

(b) **RESTATEMENT AND EXPANSION OF TREATMENT OF USE OF ELIGIBILITY.**—(1) Section 3511 is amended by adding at the end the following new subsection:

"(c) Any entitlement used by an eligible person as a result of eligibility under section 3501(a)(1)(A)(iii), 3501(a)(1)(C), or 3501(a)(1)(D)(i) of this title shall be deducted from any entitlement to which such person may subsequently be entitled under this chapter."

(2) Section 3512 is amended by striking subsection (g).

(c) **DELIMITING PERIOD.**—(1) Section 3511(a)(1) is amended by adding at the end the following new sentence: "In no event may the aggregate educational assistance afforded to a spouse made eligible under both 3501(a)(1)(D)(i) and 3501(a)(1)(D)(ii) of this title exceed 45 months."

(2) Paragraph (1) of section 3512(b) is amended to read as follows:

"(1)(A) Except as provided in subparagraph (B), 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) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph may, subject to the Secretary's approval, elect a later beginning date for the 10-year period than would otherwise be applicable to the person under that subparagraph. The beginning date so elected may be any date between the beginning date determined for the person under subparagraph (A) and whichever of the following dates applies:

"(i) The date on which the Secretary notifies the veteran from whom eligibility is derived that the veteran has a service-connected total disability permanent in nature.

"(ii) The date on which the Secretary determines that the veteran from whom eligibility is derived died of a service-connected disability."

(3) Section 3512(b) is further amended by striking paragraph (3).

(4) The amendments made by this subsection shall apply with respect to any determination (whether administrative or judicial) of the eligibility of a spouse or surviving spouse for educational assistance under chapter 35 of title 38, United States Code, made on or after the date of the enactment of this Act, whether pursuant to an original claim for such assistance or pursuant to a reapplication or attempt to reopen or readjudicate a claim for such assistance.

SEC. 109. EXPANSION OF SPECIAL RESTORATIVE TRAINING BENEFIT TO CERTAIN DISABLED SPOUSES OR SURVIVING SPOUSES.

(a) **IN GENERAL.**—Section 3540 is amended by striking "section 3501(a)(1)(A) of this title" and inserting "subparagraphs (A), (B), and (D) of section 3501(a)(1) of this title".

(b) **CONFORMING AMENDMENTS.**—(1) Section 3541(a) is amended in the matter preceding paragraph (1) by striking "of the parent or guardian".

(2) Section 3542(a) is amended—

(A) by striking "the parent or guardian shall be entitled to receive on behalf of such person" and inserting "the eligible person shall be entitled to receive"; and

(B) by striking "upon election by the parent or guardian of the eligible person" and inserting "upon election by the eligible person".

(3) The second sentence of section 3543(a) is amended by striking "the parent or guardian for the training provided to an eligible person" and inserting "for the training provided to the eligible person".

(4) Section 3543 is amended by adding at the end the following new subsection:

"(c) In a case in which the Secretary authorizes training under section 3541(a) of this title on behalf of an eligible person, the parent or guardian shall be entitled—

"(1) to receive on behalf of the eligible person the special training allowance provided for under section 3542(a) of this title;

"(2) to elect an increase in the basic monthly allowance provided for under such section; and

"(3) to agree with the Secretary on the fair and reasonable amounts which may be charged under subsection (a)."

SEC. 110. INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN DEFINITION OF EDUCATIONAL INSTITUTION.

(a) **IN GENERAL.**—Sections 3452(c) and 3501(a)(6) are each amended by adding at the end the following new sentence: "Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary)."

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to enrollments in courses beginning on or after the date of the enactment of this Act.

SEC. 111. DISTANCE EDUCATION.

(a) **IN GENERAL.**—Subsection (a)(4) of section 3680A is amended—

(1) by inserting "(A)" after "leading"; and

(2) by inserting before the period the following: ", or (B) to a certificate that reflects educational attainment offered by an institution of higher learning".

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to enrollments in independent study courses beginning on or after the date of the enactment of this Act.

TITLE II—COMPENSATION AND PENSION PROVISIONS

SEC. 201. MODIFICATION AND EXTENSION OF AUTHORITIES ON PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE-RELATED DISABILITIES OF VIETNAM VETERANS.

(a) **PRESUMPTIVE PERIOD FOR RESPIRATORY CANCERS.**—(1)(A) Subparagraph (F) of subsection (a)(2) of section 1116 is amended by striking "within 30 years" and all that follows through "May 7, 1975".

(B) The amendment made by subparagraph (A) shall take effect January 1, 2002.

(2) The Secretary of Veterans Affairs shall enter into a contract with the National Academy of Sciences, not later than six months after the date of the enactment of this Act, for the performance of a study to include a review of all available scientific literature on the effects of exposure to an herbicide agent containing dioxin on the development of respiratory cancers in humans and whether it is possible to identify a period of time after exposure to herbicides after which a presumption of service-connection for such exposure would not be warranted. Under the contract, the National Academy of Sciences shall submit a report to the Secretary setting forth its conclusions. The report shall be submitted not later than 18 months after the contract is entered into.

(3) For a period of six months beginning on the date of the receipt of the report of the National Academy of Sciences under paragraph (2), the Secretary may, if warranted by clear scientific evidence presented in the National Academy of Sciences report, initiate a rulemaking under which the Secretary would specify a limit on the number of years after a claimant's departure from Vietnam after which respiratory cancers would not be presumed to have been associated with the claimant's exposure to herbicides while serving in Vietnam. Any such limit under such a rule may not take effect until 120 days have passed after the publication of a final rule to impose such a limit.

(4)(A) Subject to subparagraphs (B) and (C), if the Secretary imposes such a limit under paragraph (3), that limit shall be effective only as to claims filed on or after the effective date of that limit.

(B) In the case of any veteran whose disability or death due to respiratory cancer is found by the Secretary to be service-connected under section 1116(a)(2)(F) of title 38, United States Code, as amended by paragraph (1), such disability or death shall remain service-connected for purposes of all provisions of law under such title notwithstanding the imposition, if any, of a time limit by the Secretary by rulemaking authorized under paragraph (3).

(C) Subparagraph (B) does not apply in a case in which—

(i) the original award of compensation or service connection was based on fraud; or

(ii) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

(b) **PRESUMPTION THAT DIABETES MELLITUS (TYPE 2) IS SERVICE-CONNECTED.**—Subsection (a)(2) of section 1116 is further amended by adding at the end the following new subparagraph: "(H) Diabetes Mellitus (Type 2)."

(c) **PRESUMPTION OF EXPOSURE TO HERBICIDE AGENTS IN VIETNAM DURING VIETNAM ERA.**—(1) Section 1116 is further amended—

(A) by transferring paragraph (3) of subsection (a) to the end of the section and redesignating such paragraph, as so transferred, as subsection (f);

(B) by redesignating paragraph (4) of subsection (a) as paragraph (3); and

(C) in subsection (f), as transferred and redesignated by subparagraph (A) of this paragraph—

(i) by striking "For the purposes of this subsection, a veteran" and inserting "For purposes of establishing service connection for a disability or death resulting from exposure to a

herbicide agent, including a presumption of service-connection under this section, a veteran"; and

(ii) by striking "and has a disease referred to in paragraph (1)(B) of this subsection".

(2)(A) The heading of that section is amended to read as follows:

"§ 1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam."

(B) The item relating to that section in the table of sections at the beginning of chapter 11 is amended to read as follows:

"1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam."

(d) EXTENSION OF AUTHORITY TO PRESUME SERVICE-CONNECTION FOR ADDITIONAL DISEASES.—(1) Subsection (e) of such section is amended by striking "10 years" and all that follows through "Agent Orange Act of 1991" and inserting "on September 30, 2015".

(2) Section 3(i) of the Agent Orange Act of 1991 (38 U.S.C. 1116 note) is amended by striking "10 years" and all that follows and inserting "on October 1, 2014".

SEC. 202. PAYMENT OF COMPENSATION FOR PERSIAN GULF WAR VETERANS WITH CERTAIN CHRONIC DISABILITIES.

(a) ILLNESSES THAT CANNOT BE CLEARLY DEFINED.—(1) Subsection (a) of section 1117 is amended to read as follows:

"(a)(1) The Secretary may pay compensation under this subchapter to a Persian Gulf veteran with a qualifying chronic disability that became manifest—

"(A) during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

"(B) to a degree of 10 percent or more during the presumptive period prescribed under subsection (b).

"(2) For purposes of this subsection, the term 'qualifying chronic disability' means a chronic disability resulting from any of the following (or any combination of any of the following):

"(A) An undiagnosed illness.

"(B) A medically unexplained chronic multisymptom illness (such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome) that is defined by a cluster of signs or symptoms.

"(C) Any diagnosed illness that the Secretary determines in regulations prescribed under subsection (d) warrants a presumption of service-connection."

(2) Subsection (c)(1) of such section is amended—

(A) in the matter preceding subparagraph (A), by striking "for an undiagnosed illness (or combination of undiagnosed illnesses)"; and

(B) in subparagraph (A), by striking "for such illness (or combination of illnesses)".

(b) SIGNS OR SYMPTOMS THAT MAY INDICATE UNDIAGNOSED ILLNESSES.—(1) Such section is further amended by adding at the end the following new subsection:

"(g) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness or a chronic multisymptom illness include the following:

"(1) Fatigue.

"(2) Unexplained rashes or other dermatological signs or symptoms.

"(3) Headache.

"(4) Muscle pain.

"(5) Joint pain.

"(6) Neurological signs and symptoms.

"(7) Neuropsychological signs or symptoms.

"(8) Signs or symptoms involving the upper or lower respiratory system.

"(9) Sleep disturbances.

"(10) Gastrointestinal signs or symptoms.

"(11) Cardiovascular signs or symptoms.

"(12) Abnormal weight loss.

"(13) Menstrual disorders."

(2) Section 1118(a) is amended by adding at the end the following new paragraph:

"(4) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the signs and symptoms listed in section 1117(g) of this title."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on March 1, 2002.

(d) CLARIFICATION OF AUTHORITY TO PRESUME SERVICE-CONNECTION FOR ADDITIONAL DISEASES.—(1) Sections 1117(c)(2) and 1118(e) are each amended by striking "10 years" and all that follows through "of 1998" and inserting "on September 30, 2011".

(2) Section 1603(j) of the Persian Gulf War Veterans Act of 1998 (38 U.S.C. 1117 note) is amended by striking "10 years" and all that follows and inserting "on October 1, 2010".

SEC. 203. PRESERVATION OF SERVICE CONNECTION FOR UNDIAGNOSED ILLNESSES TO PROVIDE FOR PARTICIPATION IN RESEARCH PROJECTS BY PERSIAN GULF WAR VETERANS.

(a) AUTHORITY FOR SECRETARY TO PROVIDE FOR PARTICIPATION WITHOUT LOSS OF BENEFITS.—Section 1117 is amended by adding after subsection (g), as added by section 202(b), the following new subsection:

"(h)(1) If the Secretary determines with respect to a medical research project sponsored by the Department that it is necessary for the conduct of the project that Persian Gulf veterans in receipt of compensation under this section or section 1118 of this title participate in the project without the possibility of loss of service connection under either such section, the Secretary shall provide that service connection granted under either such section for disability of a veteran who participated in the research project may not be terminated. Except as provided in paragraph (2), notwithstanding any other provision of law any grant of service-connection protected under this subsection shall remain service-connected for purposes of all provisions of law under this title.

"(2) Paragraph (1) does not apply in a case in which—

"(A) the original award of compensation or service connection was based on fraud; or

"(B) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

"(3) The Secretary shall publish in the Federal Register a list of medical research projects sponsored by the Department for which service connection granted under this section or section 1118 of this title may not be terminated pursuant to paragraph (1)."

(b) EFFECTIVE DATE.—The authority provided by subsection (h) of section 1117 of title 38, United States Code, as added by subsection (a), may be used by the Secretary of Veterans Affairs with respect to any medical research project of the Department of Veterans Affairs, whether commenced before, on, or after the date of the enactment of this Act.

SEC. 204. REPEAL OF LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT INSTITUTIONALIZED VETERANS.

(a) REPEAL.—Section 5503 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) CONFORMING AMENDMENTS.—(1) Section 1114(r) is amended by striking "section 5503(e)" and inserting "section 5503(c)".

(2) Section 5112 is amended by striking subsection (c).

SEC. 205. EXTENSION OF ROUND-DOWN REQUIREMENT FOR COMPENSATION COST-OF-LIVING ADJUSTMENTS.

Sections 1104(a) and 1303(a) are amended by striking "2002" and inserting "2011".

SEC. 206. EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NON-SERVICE-CONNECTED PENSION.

(a) IN GENERAL.—Section 1502(a) is amended by striking "such a person" and all that follows through the end of the subsection and inserting the following: "such person is any of the following:

"(1) A patient in a nursing home for long-term care because of disability.

"(2) Disabled, as determined by the Commissioner of Social Security for purposes of any benefits administered by the Commissioner.

"(3) Unemployable as a result of disability reasonably certain to continue throughout the life of the person.

"(4) Suffering from—

"(A) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the person; or

"(B) any disease or disorder determined by the Secretary to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 17, 2001.

SEC. 207. ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR VETERANS' PENSION BENEFITS.

(a) IN GENERAL.—(1) Subchapter II of chapter 15 is amended by inserting after section 1512 the following new section:

"§ 1513. Veterans 65 years of age and older"

"(a) The Secretary shall pay to each veteran of a period of war who is 65 years of age or older and who meets the service requirements of section 1521 of this title (as prescribed in subsection (j) of that section) pension at the rates prescribed by 1521 of this title and under the conditions (other than the permanent and total disability requirement) applicable to pension paid under that section.

"(b) If a veteran is eligible for pension under both this section and section 1521 of this title, pension shall be paid to the veteran only under section 1521 of this title."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1512 the following new item:

"1513. Veterans 65 years of age and older."

(b) CONFORMING AMENDMENTS.—(1) Section 1521(f)(1) is amended by inserting "or the age and service requirements prescribed in section 1513 of this title," after "of this section,".

(2) Section 1522(a) is amended by inserting "1513 or" after "under section".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 17, 2001.

TITLE III—TRANSITION AND OUTREACH PROVISIONS

SEC. 301. AUTHORITY TO ESTABLISH OVERSEAS VETERANS ASSISTANCE OFFICES TO EXPAND TRANSITION ASSISTANCE.

Section 7723(a) is amended by inserting after the first sentence the following new sentence: "The Secretary may maintain such offices on such military installations located elsewhere as the Secretary, after consultation with the Secretary of Defense, determines to be necessary to carry out such purposes."

SEC. 302. TIMING OF PREPARATION COUNSELING.

(a) IN GENERAL.—(1) The first sentence of section 1142(a)(1) of title 10, United States Code, is amended to read as follows: "Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual pre-separation counseling of each member of the armed forces

whose discharge or release from active duty is anticipated as of a specific date.”.

(2) Such section is further amended by adding at the end the following new paragraphs:

“(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence as soon as possible during the 12-month period preceding the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 90 days before the date of discharge or release.

“(B) In the event that a retirement or other separation is unanticipated until there are 90 or fewer days before the anticipated retirement or separation date, preseparation counseling shall begin as soon as possible within the remaining period of service.

“(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of that member’s first 180 days of active duty.

“(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.”.

(b) **CONFORMING AMENDMENT.**—The second sentence of section 1144(a)(1) of title 10, United States Code, is amended by striking “during the 180-day period” and all that follows and inserting “within the time periods provided under paragraph (3) of section 1142(a) of this title, except that the Secretary concerned shall not provide preseparation counseling to a member described in paragraph (4)(A) of such section.”.

SEC. 303. IMPROVEMENT IN EDUCATION AND TRAINING OUTREACH SERVICES FOR SEPARATING SERVICEMEMBERS AND VETERANS.

(a) **PROVIDING OUTREACH THROUGH STATE APPROVING AGENCIES.**—Section 3672(d) is amended by inserting “and State approving agencies” before “shall actively promote the development of programs of training on the job”.

(b) **ADDITIONAL DUTY.**—Such section is further amended—

(1) by inserting “(1)” after “(d)”;

(2) by adding at the end the following new paragraph:

“(2) In conjunction with outreach services provided by the Secretary under chapter 77 of this title for education and training benefits, each State approving agency shall conduct outreach programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State law.”.

SEC. 304. IMPROVEMENT OF VETERANS OUTREACH PROGRAMS.

Section 7722(c) is amended—

(1) by inserting “(1)” after “(c)”;

(2) by adding at the end the following:

“(2) Whenever a veteran or dependent first applies for any benefit under laws administered by the Secretary (including a request for burial or related benefits or an application for life insurance proceeds), the Secretary shall provide to the veteran or dependent information concerning benefits and health care services under programs administered by the Secretary. Such information shall be provided not later than three months after the date of such application.”.

TITLE IV—HOUSING MATTERS

SEC. 401. INCREASE IN HOME LOAN GUARANTY AMOUNT FOR CONSTRUCTION AND PURCHASE OF HOMES.

Section 3703(a)(1) is amended by striking “\$50,750” each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting “\$60,000”.

SEC. 402. NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM.

(a) **EXTENSION OF PILOT PROGRAM.**—Section 3761(c) is amended by striking “December 31, 2001” and inserting “December 31, 2005”.

(b) **AUTHORIZATION OF THE USE OF CERTAIN FEDERAL MEMORANDUMS OF UNDERSTANDING.**—Section 3762(a)(1) is amended—

(1) by inserting “(A)” after “(1)”;

(2) by striking “and” after the semicolon and inserting “or”;

(3) by adding at the end the following:

“(B) the tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to direct housing loans to Native Americans that the Secretary determines substantially complies with the requirements of subsection (b); and”.

(c) **EXTENSION OF ANNUAL REPORT.**—Section 3762(j) is amended by striking “2002” and inserting “2006”.

SEC. 403. MODIFICATION OF LOAN ASSUMPTION NOTICE REQUIREMENT.

Section 3714(d) is amended to read as follows:

“(d) With respect to a loan guaranteed, insured, or made under this chapter, the Secretary shall provide, by regulation, that at least one instrument evidencing either the loan or the mortgage or deed of trust therefor, shall conspicuously contain, in such form as the Secretary shall specify, a notice in substantially the following form: ‘This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent.’”.

SEC. 404. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

Section 2102 is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking “\$43,000” and inserting “\$48,000”;

(2) in subsection (b)(2), by striking “\$8,250” and inserting “\$9,250”.

SEC. 405. EXTENSION OF OTHER HOUSING AUTHORITIES.

(a) **HOUSING LOANS FOR MEMBERS OF THE SELECTED RESERVE.**—Section 3702(a)(2)(E) is amended by striking “September 30, 2007” and inserting “September 30, 2009”.

(b) **ENHANCED LOAN ASSET SALE AUTHORITY.**—Section 3720(h)(2) is amended by striking “December 31, 2008” and inserting “December 31, 2011”.

(c) **HOME LOAN FEE AUTHORITIES.**—The table in section 3729(b)(2) is amended by striking “October 1, 2008” each place it appears and inserting “October 1, 2011”.

(d) **PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.**—Section 3732(c)(11) is amended by striking “October 1, 2008” and inserting “October 1, 2011”.

SEC. 406. CLARIFYING AMENDMENT RELATING TO ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE FOR HOUSING LOANS.

Section 3729(b)(4)(B) is amended by inserting before the period the following: “who is eligible under section 3702(a)(2)(E) of this title”.

TITLE V—OTHER MATTERS

SEC. 501. INCREASE IN BURIAL BENEFITS.

(a) **BURIAL AND FUNERAL EXPENSES.**—(1) Clause (1) of section 2307 is amended by striking “\$1,500” and inserting “\$2,000”.

(2) The amendment made by paragraph (1) shall apply to deaths occurring on or after September 11, 2001.

(b) **PLOT ALLOWANCE.**—(1) Section 2303(b) is amended by striking “\$150” each place it appears and inserting “\$300”.

(2) The amendments made by paragraph (1) shall apply to deaths occurring on or after December 1, 2001.

SEC. 502. GOVERNMENT MARKERS FOR MARKED GRAVES AT PRIVATE CEMETERIES.

(a) **GOVERNMENT MARKER BENEFIT.**—Section 2306 of title 38, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

“(d)(1) The Secretary shall furnish, when requested, an appropriate Government marker at the expense of the United States for the grave of an individual described in paragraph (2) or (5) of subsection (a) who is buried in a private cemetery, notwithstanding that the grave is marked by a headstone or marker furnished at private expense. Such a marker may be furnished only if the individual making the request for the Government marker certifies to the Secretary that the marker will be placed on the grave for which the marker is requested.

“(2) Any marker furnished under this subsection shall be delivered by the Secretary directly to the cemetery where the grave is located.

“(3) The authority to furnish a marker under this subsection expires on December 31, 2006.

“(4) Not later than February 1, 2006, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the use of the authority under this subsection. The report shall include the following:

“(A) The rate of use of the benefit under this subsection, shown by fiscal year.

“(B) An assessment as to the extent to which markers furnished under this subsection are being delivered to cemeteries and placed on grave sites consistent with the provisions of this subsection.

“(C) The Secretary’s recommendation for extension or repeal of the expiration date specified in paragraph (3).”.

(b) **DESIGN OF MARKER.**—Subsection (c) of such section is amended by striking “subsection (a) or (b)” and inserting “subsection (a), (b), or (d)”.

(c) **CROSS REFERENCE CORRECTION.**—Subsection (a)(5) of such section is amended by striking “chapter 67” and inserting “chapter 1223”.

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply with respect to markers for the graves of individuals dying on or after the date of the enactment of this Act.

SEC. 503. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 3902(a) is amended by striking “\$8,000” and inserting “\$9,000”.

SEC. 504. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Paragraph (7) of subsection (d) of section 5503, as redesignated by section 204(a), is amended by striking “September 30, 2008” and inserting “September 30, 2011”.

SEC. 505. PROHIBITION ON PROVISION OF CERTAIN BENEFITS WITH RESPECT TO PERSONS WHO ARE FUGITIVE FELONS.

(a) **PROHIBITION.**—(1) Chapter 53 is amended by inserting after section 5313A the following new section:

“§5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons

“(a) A veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran is a fugitive felon. A dependent of a veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran or such dependent is a fugitive felon.

“(b) For purposes of this section:

“(1) The term ‘fugitive felon’ means a person who is a fugitive by reason of—

“(A) fleeing to avoid prosecution, or custody or confinement after conviction, for an offense,

or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or

“(B) violating a condition of probation or parole imposed for commission of a felony under Federal or State law.

“(2) The term ‘felony’ includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

“(3) The term ‘dependent’ means a spouse, surviving spouse, child, or dependent parent of a veteran.

“(c) A benefit specified in this subsection is a benefit under any of the following:

“(1) Chapter 11 of this title.

“(2) Chapter 13 of this title.

“(3) Chapter 15 of this title.

“(4) Chapter 17 of this title.

“(5) Chapter 19 of this title.

“(6) Chapter 30, 31, 32, 34, or 35 of this title.

“(7) Chapter 37 of this title.

“(d)(1) The Secretary shall furnish to any Federal, State, or local law enforcement official, upon the written request of such official, the most current address maintained by the Secretary of a person who is eligible for a benefit specified in subsection (c) if such official—

“(A) provides to the Secretary such information as the Secretary may require to fully identify the person;

“(B) identifies the person as being a fugitive felon; and

“(C) certifies to the Secretary that apprehending such person is within the official duties of such official.

“(2) The Secretary shall enter into memoranda of understanding with Federal law enforcement agencies, and may enter into agreements with State and local law enforcement agencies, for purposes of furnishing information to such agencies under paragraph (1).”

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 5313A the following new item:

“5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons.”

(b) SENSE OF CONGRESS ON ENTRY INTO MEMORANDA OF UNDERSTANDING AND AGREEMENTS.—It is the sense of Congress that the memoranda of understanding and agreements referred to in section 5313B(d)(2) of title 38, United States Code (as added by subsection (a)), should be entered into as soon as practicable after the date of the enactment of this Act, but not later than six months after that date.

SEC. 506. LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED SINCE OCTOBER 7, 1980.

(a) LIMITATION.—Section 5313 of title 38, United States Code, other than subsection (d) of that section, shall apply with respect to the payment of compensation to or with respect to any veteran described in subsection (b).

(b) COVERED VETERANS.—A veteran described in this subsection is a veteran who is entitled to compensation and who—

(1) on October 7, 1980, was incarcerated in a Federal, State, or local penal institution for a felony committed before that date; and

(2) remains so incarcerated for conviction of that felony as of the date of the enactment of this Act.

(c) EFFECTIVE DATE.—This section shall apply with respect to the payment of compensation for months beginning on or after the end of the 90-day period beginning on the date of the enactment of this Act.

(d) COMPENSATION DEFINED.—For purposes of this section, the term “compensation” has the meaning given that term in section 5313 of title 38, United States Code.

SEC. 507. ELIMINATION OF REQUIREMENT FOR PROVIDING A COPY OF NOTICE OF APPEAL TO THE SECRETARY OF VETERANS AFFAIRS.

(a) REPEAL.—Section 7266 is amended by striking subsection (b).

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking “(1)” after “(a)”;

(2) by redesignating paragraph (2) as subsection (b);

(3) by redesignating paragraph (3) as subsection (c) and redesignating subparagraphs (A) and (B) thereof as paragraphs (1) and (2); and

(4) by redesignating paragraph (4) as subsection (d) and by striking “paragraph (3)(B)” therein and inserting “subsection (c)(2)”.

SEC. 508. INCREASE IN FISCAL YEAR LIMITATION ON NUMBER OF VETERANS IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

(a) INCREASE IN LIMITATION.—Section 3120(e) is amended by striking “five hundred” and inserting “2,500”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 30, 2001.

SEC. 509. TECHNICAL AND CLERICAL AMENDMENTS.

(a) REPEAL OF EXPIRED PROVISION.—(1) Section 712 is repealed.

(2) The table of sections at the beginning of chapter 7 is amended by striking the item relating to section 712.

(b) CORRECTION OF WORD OMISSION.—Section 1710B(c)(2)(B) is amended by inserting “on” before “November 30, 1999”.

(c) REPEAL OF ERRONEOUS CROSS REFERENCE.—Section 1729B(b) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(d) CORRECTION OF CROSS REFERENCE.—Section 3695(a)(5) is amended by striking “1610” and inserting “1611”.

(e) STYLISTIC CORRECTION.—Section 1001(a)(2) of the Veterans’ Benefits Improvements Act of 1994 (Public Law 103-446; 38 U.S.C. 7721 note) is amended by striking “and” at the end of subparagraph (C).

(f) CORRECTION OF PREVIOUS AMENDMENT.—Effective November 30, 1999, and as if included therein as originally enacted, section 204(e)(3) of the Veterans Millennium Health Care and Benefits Act (Public Law 106-117; 113 Stat. 1563) is amended by striking “and inserting ‘a;’” and inserting “the first place it appears and inserting ‘an;’”.

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SEC. 601. FACILITATION OF STAGGERED TERMS OF JUDGES THROUGH TEMPORARY EXPANSION OF THE COURT.

(a) IN GENERAL.—Section 7253 is amended by adding at the end the following new subsection:

“(h) TEMPORARY EXPANSION OF COURT.—(1) During the period from January 1, 2002, through August 15, 2005, the authorized number of judges of the Court specified in subsection (a) is increased by two.

“(2)(A) Of the two additional judges authorized by this subsection—

“(i) only one may be appointed pursuant to a nomination made in 2002; and

“(ii) only one may be appointed pursuant to a nomination made in 2003.

“(B) If a judge is not appointed under this subsection pursuant to a nomination made in 2002, a judge may be appointed under this subsection pursuant to a nomination made in 2004. If a judge is not appointed under this subsection pursuant to a nomination made in 2003, a judge may be appointed under this subsection pursuant to a nomination made in 2004. In either case, such an appointment may be made only pursuant to a nomination made before October 1, 2004.

“(3) The term of office and the eligibility for retirement of a judge appointed under this sub-

section, other than a judge described in paragraph (4), are governed by the provisions of section 1012 of the Court of Appeals for Veterans Claims Amendments of 1999 (title X of Public Law 106-117; 113 Stat. 1590; 38 U.S.C. 7296 note) if the judge is one of the first two judges appointed to the Court after November 30, 1999.

“(4) A judge of the Court as of the date of the enactment of this subsection who was appointed to the Court before January 1, 1991, may accept appointment as a judge of the Court under this subsection notwithstanding that the term of office of the judge on the Court has not yet expired under this section. The term of office of an incumbent judge who receives an appointment as described in the preceding sentence shall be 15 years, which includes any period remaining in the unexpired term of the judge. Any service following an appointment under this subsection shall be treated as though served as part of the original term of office of that judge on the Court.

“(5) Notwithstanding paragraph (1), an appointment may not be made to the Court if the appointment would result in there being more than seven judges on the Court who were appointed after January 1, 1997. For the purposes of this paragraph, a judge serving in recall status under section 7257 of this title shall be disregarded in counting the number of judges appointed to the Court after such date.”

(b) STYLISTIC AMENDMENTS.—That section is further amended—

(1) in subsection (b), by inserting “APPOINTMENT.—” before “The judges”;

(2) in subsection (c), by inserting “TERM OF OFFICE.—” before “The term”;

(3) in subsection (f), by striking “(f)(1)” and inserting “(f) REMOVAL.—(1)”;

(4) in subsection (g), by striking “(g)(1)” and inserting “(g) RULES.—(1)”.

SEC. 602. REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF REAPPOINTMENT AS CONDITION TO RETIREMENT FROM THE COURT.

Section 7296(b)(2) is amended by striking the second sentence.

SEC. 603. TERMINATION OF NOTICE OF DISAGREEMENT AS JURISDICTIONAL REQUIREMENT FOR THE COURT.

(a) TERMINATION.—Section 402 of the Veterans’ Judicial Review Act (division A of Public Law 100-687; 102 Stat. 4122; 38 U.S.C. 7251 note) is repealed.

(b) ATTORNEY FEES.—Section 403 of the Veterans’ Judicial Review Act (102 Stat. 4122; 38 U.S.C. 5904 note) is repealed.

(c) CONSTRUCTION.—The repeal in subsection (a) may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

(d) APPLICABILITY.—The repeals made by subsections (a) and (b) shall apply to any appeal filed with the United States Court of Appeals for Veterans Claims—

(1) on or after the date of the enactment of this Act; or

(2) before the date of the enactment of this Act but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

SEC. 604. REGISTRATION FEES.

(a) FEES FOR COURT-SPONSORED ACTIVITIES.—Subsection (a) of section 7285 is amended by adding at the end the following new sentence: “The Court may also impose a registration fee on persons (other than judges of the Court) participating at judicial conferences convened pursuant to section 7286 of this title or in any other court-sponsored activity.”

(b) USE OF FEES.—Subsection (b) of such section is amended by striking “for the purposes of (1)” and all that follows through the period and inserting “for the following purposes:

“(1) Conducting investigations and proceedings, including employing independent counsel, to pursue disciplinary matters.

“(2) Defraying the expenses of—

“(A) judicial conferences convened pursuant to section 7286 of this title; and

“(B) other activities and programs of the Court that are intended to support and foster communication and relationships between the Court and persons practicing before the Court or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court.”.

(c) CLERICAL AMENDMENTS.—(1) The heading for such section is amended to read as follows: “§ 7285. Practice and registration fees”.

(2) The item relating to such section in the table of sections at the beginning of chapter 72 is amended to read as follows:

“7285. Practice and registration fees.”.

SEC. 605. ADMINISTRATIVE AUTHORITIES.

(a) IN GENERAL.—Subchapter III of chapter 72 is amended by inserting after section 7286 the following new section:

“§ 7287. Administration

“Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds of the Court, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision of law) applicable to a court of the United States (as that term is defined in section 451 of title 28), except to the extent that such provision of law is inconsistent with a provision of this chapter.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 7286 the following new item:

“7287. Administration.”.

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge the Senate to pass H.R. 1291, the proposed “Veterans Education and Benefits Expansion Act of 2001.”

The pending measure is the final compromise version of an omnibus bill that improves a wide variety of veterans benefits, such as the amount and flexibility of the Montgomery GI bill, enhances compensation to Gulf War veterans, as well as to Vietnam veterans with Agent Orange-related conditions, increases the VA home loan guaranty amount, extends VA's authority to provide home loans to Reservists and on Native American tribal land, and augments burial benefits. The key provisions are described in more detail below. I refer my colleagues seeking more detail to the Joint Explanatory Statement accompanying this statement.

H.R. 1291, which I will refer to as the “compromise agreement,” makes significant enhancements to educational benefits for veterans and their families. I thank my colleagues in the House for working with our committee staff to enhance the education benefits that help pay back veterans for the service they have given our Nation. Today's Montgomery GI bill, MGIB, provides a valuable recruitment and retention tool for the Armed Services. As a transition benefit, it allows veterans to gain the skills they need to adjust productively to civilian life when they return from service.

I am very pleased that the compromise bill, in section 101, will increase the MGIB basic monthly benefit to \$800 per month beginning in January 2002, \$900 in 2002, and \$985 in 2003. I am even more proud that H.R. 1291 also takes the next step to keep pace with education needed for success in high-technology fields. As our colleagues know, many servicemembers leave the military with skills that place them in demand for careers in the technology sector. But even these veterans may require additional coursework to convert their military skills to civilian careers. Sections 104 and 110 of the committee bill will allow veterans to use their Montgomery GI bill educational benefits to pay for short-term, high technology courses that enable veterans to earn the credentials they need to gain entry to lucrative civilian-sector careers.

Currently, the MGIB provides a basic monthly benefit for education costs. This payment structure is designed to assist veterans pursuing traditional 4-year degrees at universities. However, in today's fast paced, high-tech economy, traditional degrees may not always be the best option. Many veterans are pursuing forms of nontraditional training, such as short-term courses that lead to certification in a technical field. In certain fields, these certifications are a prerequisite to employment.

These courses, such as Microsoft or Cisco systems training, may be offered through training centers, private contractors to community colleges, or the companies themselves. They often last just a few weeks or months, and can cost many thousands of dollars. The way MGIB is paid out in monthly disbursements is not suited to this course structure. For example, MGIB would pay less than \$1,400 for a 2-month course that could cost as much as \$10,000.

The percentage of veterans who actually use the MGIB benefits they have earned and paid for is startlingly low, 45 percent of eligible veterans, according to VA's Program Evaluation of the Montgomery GI bill published in April 2000, despite almost full enrollment in the program by servicemembers. By increasing the flexibility of the MGIB program, we will permit more veterans to take advantage of these benefits. This legislation gives veterans the right to choose the kind of educational program that will be best for them.

This legislation will modify the payment method to accommodate the compressed schedule of these courses. Specifically, section 104 allows veterans to receive an accelerated payment equal to 60 percent of the cost of the program. This is comparable to VA's MGIB benefit for flight training, for which VA reimburses 60 percent of the costs. The dollar value of the accelerated payment would then be deducted from the veteran's remaining entitlement. Section 110 allows courses offered by these providers to be covered by MGIB.

I am extremely proud that section 103 of this legislation will restore educational and vocational rehabilitation and training benefits for servicemembers and reservists who must leave their course of study to serve on active duty, such as military members called away to serve in connection with the current National Emergency declared in response to the events of September 11, 2001. This provision will amend a provision that restores such entitlements for servicemembers and reservists called to active duty for the Persian Gulf War. In 1997, Congress similarly expanded educational benefits restoration for the Selected Reserve Program.

Section 102 will increase the Dependent's Educational Allowance, DEA, for dependents and eligible spouses of veterans. Congress created this educational program in 1968 to provide educational opportunities to children whose education would be impeded or interrupted because of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces. In addition, surviving spouses of veterans who do not remarry are generally eligible for the educational allowance in order to assist them in preparing to support themselves and their families at the standard-of-living level that the veteran could have been expected to provide for his or her family but for the service-connected disability or death. Children and surviving spouses of servicemembers who are missing in action for 90 days, captured in the line of duty by a hostile force, or detained or interned by a foreign government, are also eligible for the educational allowance.

DEA is available for full-time, three-quarter time or half-time attendance at an institution of higher learning, for students taking correspondence courses, pursuing special restorative training, or apprenticeship training. The increase in DEA for full-time students would be to \$670 from \$608 on January 1, 2002, with no cost-of-living adjustment that year. The allowance for a three-quarter time student would increase to \$503 from \$456, and the allowance for half-time pursuit would increase to \$335 from \$304.

As many of my colleagues remember, questions about the long-term consequences of exposure to Agent Orange arose during the Vietnam War. Decades later, veterans of that war still await clear answers. A series of ongoing reviews by the National Academy of Sciences has helped to provide some of those answers, such as the potential link between exposure to chemicals in Agent Orange and respiratory cancers. The legislation before us would continue these scientific reviews, and extend the Secretary of Veterans Affairs' authority to act upon new scientific evidence.

Currently, Vietnam veterans can claim service-connected benefits for respiratory cancers, but only if those

cancers are diagnosed within 30 years of their Vietnam service. Section 201 would remove that time limit, which the last scientific review preliminarily found to be without clear basis. However, to ensure that this decision is based upon sound evidence, the provision also allows the Secretary to request a scientific review by NAS specifically addressing whether a time limit on manifestation of respiratory cancers is warranted, and to impose such a limit if supported by scientific findings. Should the Secretary's requested review result in a finding of a more restrictive latency period for manifestation of these respiratory cancers, the compromise agreement would ensure that the families and survivors of these veterans remain eligible for VA benefits. Finally, this bill also restores a VA presumption, eliminated by a Court decision, that all in-country Vietnam veterans were exposed to Agent Orange.

Following the Gulf War, returning troops began to report a range of unexplained illnesses that many attributed to their service, but that could not be linked conclusively to a specific battlefield hazard. In 1994, Congress passed the Persian Gulf War Veterans' Benefits Act, allowing the Secretary to compensate certain Gulf War veterans disabled by "undiagnosed illnesses" for which no other causes could be identified. The term "undiagnosed illnesses" has been interpreted by VA to preclude any veteran from eligibility who has received a diagnosis, even if that diagnosis is merely a descriptive label for a collection of unexplained symptoms. This legislation would authorize the Secretary to compensate an eligible Gulf War veteran disabled by a "medically unexplained chronic multisymptom illness defined by a cluster of signs or symptoms," such as chronic fatigue syndrome or fibromyalgia. Rather than defining Gulf War illnesses, section 202 of this legislation would correct an unfair situation that penalizes Gulf War veterans whose physicians have embraced changes in medical terminology in the past decade.

Since 1933, there has been a prohibition on paying benefits to an incompetent veteran who has no dependents and who has assets of \$1,500 or more, if the veteran is being provided institutional health care by the Government. Then, incompetent individuals might be institutionalized for years. It was believed that a large estate based on the veteran's benefits should not be allowed to build up just to pass to the state upon the veteran's death. Now, treatment modalities have changed and veterans are more likely to cycle in and out of treatment, which results in virtually constant suspension and reinstatement of their benefits.

Last year, in Public Law 106-419, Congress addressed this anomaly in law. Although we had hoped to fully eliminate the disparate and discriminatory treatment of incompetent veterans, due to cost restraints we were only

able to raise the dollar amount of the cutoff to five times the 100 percent compensation rate. I am enormously proud that Section 204 would fully repeal the limitation on payment thereby ending decades of prejudice and discrimination against these veterans.

The committee bill also enhances and extends home loan programs. As most of our colleagues appreciate, VA does not provide a direct home loan for servicemembers and veterans. Instead, it provides a guaranty to mortgage lenders should the borrower veteran be unable to meet the payments and go into foreclosure. A VA guaranty allows a veteran to buy a home valued at up to four times the guaranty amount. The price of homes in major metropolitan areas has increased significantly in the last several years, yet the VA guaranty amount has not been increased since 1994. VA estimates that during fiscal year 2001, VA will have guaranteed 250,000 loans for veterans. Section 401 will increase the home loan guaranty amount to \$60,000 from the current \$50,750, supporting a loan of up to \$240,000.

Section 403 will extend for 2 years the authority for housing loan guaranties for members of the Selected Reserve, currently set to expire in 2007. Reservists must serve 6 years in order to become eligible for a VA-guaranteed loan. In order for the home loan to be used as a recruiting incentive now, the benefit must be authorized beyond 6 years. It is especially appropriate that we recognize the importance of those who serve in the Selected Reserves as we rely on them yet again, in this time of national crisis.

In conclusion, I want to thank Senator SPECTER and his benefits staff, Bill Tuerk, Jon Towers, and Chris McNamee, for diligently working with me and my benefits staff, Bill Brew, Mary Schoelen, Julie Fischer, Bridget Baylin, Chris Reinard, and Dahlia Melendrez, to craft this legislation during this extraordinary year. I urge my colleagues to support these vital enhancements to veterans benefits. As has been the case in previous years and is particularly important in light of our country's current military actions, this truly represents a bipartisan commitment to our Nation's veterans.

I ask unanimous consent that the Joint Explanatory Statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 1291, COMPROMISE AGREEMENT, THE VETERANS EDUCATION AND BENEFITS EXPANSION ACT OF 2001

The Senate considered S. 1088, as amended, struck the existing text and incorporated it into H.R. 1291, then passed it by unanimous consent on December 7, 2001.

EDUCATION MATTERS

Increases the rate of the basic benefit of the Montgomery G.I. Bill (MGIB) from the current \$672 per month to \$800 per month beginning on January 1, 2002; \$900 per month on October 1, 2002; and \$985 per month on October 1, 2003.

Increases the Dependent's Educational Allowance to \$670 from \$608 for dependents and spouses of veterans who are totally disabled or who die as a result of a service-connected condition, effective January 1, 2002.

Restores lost educational and vocational rehabilitation benefits for servicemembers and reservists who must leave their course of study to serve on active duty, such as military members called away to serve in the current National Emergency.

Creates flexibility in the payment method for MGIB to partially pay for short-term/high tech courses. It would accelerate payment of up to 60 percent of the cost of an approved program that leads to employment in a high technology industry.

COMPENSATION AND PENSION MATTERS

Removes the arbitrary 30-year limit for manifestation of Agent Orange-related respiratory cancers in Vietnam veterans and tasks the National Academy of Sciences (NAS) to continue reviewing scientific evidence on effects of dioxin or herbicide exposure through October 1, 2014.

Extends authority of the VA to presume service connection for additional diseases as based on future NAS reports through September 30, 2015.

Codifies presumption that Type 2 diabetes in Vietnam veterans exposed to Agent Orange is service-connected.

Authorizes the Secretary to pay compensation to Gulf War veteran chronically disabled by a diagnosed, but medically unexplained multisymptom illness, such as chronic fatigue syndrome.

Allows the Secretary to protect the grant of service connection for an undiagnosed illness when a Persian Gulf War veteran participates in a VA-sponsored medical research project.

HOUSING MATTERS

Increases the VA home loan guaranty amount to \$60,000 from the current \$50,750. The VA guaranty amount has not been increased since 1994.

Extends the Native American veterans housing loan program, which allows loans on tribal lands for four years. Extends the authority for housing loan guaranties for members of the Selected Reserves for two years.

Increases the grant for specially adapted housing for severely disabled veterans to \$48,000 from \$43,000.

BURIAL MATTERS

Increases VA burial benefits for service-connected deaths of veterans from \$1,500 to \$2,000.

Allows VA to furnish a bronze marker to permanently commemorate the service of a veteran on an already marked grave in a private cemetery.

EXPLANATORY STATEMENT ON HOUSE AMENDMENT TO SENATE AMENDMENTS TO H.R. 1291

The House amendment to the Senate amendments to H.R. 1291 reflect a compromise agreement that the House and Senate Committees on Veterans' Affairs have reached on H.R. 801, H.R. 1291, H.R. 2540, H.R. 3240, and S. 1088. H.R. 801 passed the House on March 27, 2001. H.R. 1291 passed the House on June 19, 2001. H.R. 2540 passed the House on July 31, 2001. H.R. 3240 passed the House on November 13, 2001. The Senate considered S. 1088 (hereinafter known as the "Senate bill") on December 7, 2001. This measure was incorporated in H.R. 1291 as an amendment and passed the Senate by unanimous consent on December 7, 2001.

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of H.R. 1291, as amended, (hereinafter referred to as the "Compromise Agreement"). Differences between the provisions contained in the Compromise Agreement and the related provisions of H.R. 801,

H.R. 1291, H.R. 2540, H.R. 3240, and S. 1088 are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

Title I—Educational Assistance Provisions

INCREASES IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL

Current law

Section 3011 of title 38, United States Code, establishes basic educational assistance entitlement under the All-Volunteer Force Educational Assistance Program, commonly referred to as the Montgomery GI Bill or MGIB—Active Duty program. Section 3015 establishes the base amount of such educational assistance at the monthly rate of \$528 for a 3-year period of service and \$429 for a 2-year period of service. These amounts increased to \$650 per month and \$528 per month, respectively, on November 1, 2000. With the addition of a cost-of-living adjustment (COLA) on October 1, 2001, the rates are \$672 and \$546, respectively.

House bill

Section 2(a)(1) of H.R. 1291 would amend section 3015(a)(1) to increase the amount of educational benefits under the Montgomery GI Bill for an approved program of education on a full-time basis from the current monthly rate of \$650 (\$672 with COLA) for an obligated period of active duty of 3 or more years to \$800 effective October 1, 2001, \$950 effective October 1, 2002, and \$1,100 effective October 1, 2003.

Section 2(a)(2) of H.R. 1291 would amend section 3015(b)(1) of title 38, United States Code, to increase the amount of educational benefits for an obligated period of active duty of 2 years from the current monthly rate of \$528 (\$546 with COLA) to \$650 effective October 1, 2001, \$772 effective October 1, 2002, and \$894 effective October 1, 2003.

Section 2(b) of H.R. 1291 would suspend the statutory annual adjustment in MGIB rates based on the Consumer Price Index beginning in fiscal year 2002 and reinstate that adjustment beginning in fiscal year 2005.

Senate bill

Section 101 of the Senate bill would increase the amount of educational benefits under the Montgomery GI Bill for veterans whose original service obligation was 3 or more years to \$700 in fiscal year 2002, \$800 in fiscal year 2003, and \$950 in fiscal year 2004. For veterans whose original service obligation was 2 years, the monthly educational benefit would be increased to \$569 in fiscal year 2002, \$650 in fiscal year 2003, and \$772 in fiscal year 2004.

Compromise agreement

Section 101 of the compromise agreement would increase the amount of educational benefits under the Montgomery GI Bill for an obligated period of active duty of 3 or more years to \$800 effective January 1, 2002; \$900 effective October 1, 2002; and \$985 effective October 1, 2003. For service obligation of 2 years, increases are to \$650 effective January 1, 2002; \$732 effective October 1, 2002; and \$800 effective October 1, 2003. The COLA is suspended for Fiscal Years 2003 and 2004.

INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Current law

Chapter 35 of title 38, United States Code, provides educational assistance to spouses and dependent children of veterans who are totally disabled or who die as a result of a service-connected condition. Eligible persons are paid at a monthly rate of \$588, \$441, and \$294, respectively, for full, three-quarter, and half-time studies. The cost-of-living adjust-

ment (COLA) furnished on October 1, 2001, increased these rates to \$608, \$456, and \$304, respectively.

House bill

The House bills contain no comparable provision.

Senate bill

Section 106 of the Senate bill would increase the monthly amount of education benefits provided under chapter 35 of title 38, United States Code, for full-time students from \$588 (\$608 with the COLA) to \$690, from \$441 (\$456 of COLA) to \$517 for three-quarter time students, and from \$294 (\$306 with the COLA) to \$345 for half-time students (rates in current law after cost-of-living adjustment). These increases would take effect October 1, 2001.

Compromise agreement

Section 102 of the compromise agreement would follow the language of the Senate bill, except that it would increase the monthly amount of education benefits provided to full-time students in traditional education programs, training in business or industry, correspondence courses or special restorative training from \$608 to \$670 on January 1, 2002. The compromise agreement would also include increases for on-job training, apprenticeship, and farm cooperative programs.

RESTORATION OF CERTAIN EDUCATION BENEFITS OF INDIVIDUALS BEING ORDERED TO ACTIVE DUTY

Current law

Sections 3013(f)(2), 3231(a)(5), and 3511(a)(2)(B)(i) of title 38, United States Code, provide that no educational allowance paid to servicemembers, reservists, or eligible dependents shall be counted against the total length or amount of their education entitlement if the pursuit of an educational objective was interrupted as a result of being ordered to serve in connection with the Persian Gulf War.

House bill

H.R. 3240 would restore entitlement under the Montgomery GI Bill (MGIB), Veterans' Educational Assistance Program (VEAP), and Survivors' and Dependents' Educational Assistance program (DEA) for any servicemembers, reservists, or DEA recipients called to active duty during Operation Enduring Freedom and at any time in the future.

Senate bill

Section 105 of the Senate bill would restore entitlement under the MGIB, VEAP, and Survivor's and DEA programs for any servicemembers, reservists, or DEA recipients called to active duty in connection with the National Emergency declared by the Presidential Proclamation dated September 14, 2001.

Compromise bill

Section 103 of the compromise agreement follows the House language and adds entitlement restoration for persons pursuing education or training under chapter 31 of title 38, United States Code. Further, the period during which the person may use his or her educational benefits under chapters 31 or 35 would be the period equal to the length of active service for which the person is recalled, plus four months.

ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY

Current law

Section 3014 of title 38, United States Code, provides that the basic educational benefit available under the Montgomery GI Bill be disbursed in up to 36 monthly installments.

Benefits are provided for each month in which the MGIB participant is certified to be participating in a course of study. If requested by a veteran, section 3680(d)(2) of title 38, United States Code, allows for an advance payment of educational assistance in an amount equivalent to the allowance for the month, or fraction thereof, in which pursuit of an education program will commence, plus the allowance for the succeeding month. This payment structure is geared primarily toward the pursuit of traditional two- and four-year degrees.

House bill

The House bills contain no comparable provision.

Senate bill

Section 103 of the Senate bill would further expand the Montgomery GI Bill benefit to accommodate a compressed schedule of courses leading to employment in a high technology industry by authorizing accelerated payment covering up to 60% of the cost of a high technology course, provided the cost of such course exceeds 200% of the monthly MGIB rate. This lump sum would be deducted from the veteran's remaining MGIB entitlement.

Compromise agreement

Section 104 of the compromise agreement follows the Senate language, effective October 1, 2002.

ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS OR CERTAIN ADDITIONAL VIETNAM-ERA VETERANS

Current law

Section 3011 of title 38, United States Code, provides that a Vietnam-era veteran may convert his or her Vietnam-era GI Bill benefit to the Montgomery GI Bill educational benefit, if the veteran had eligibility for Vietnam-era GI Bill benefits as of December 31, 1989, was on active duty on October 19, 1984, and served 3 continuous years after June 30, 1985.

House bill

The House bills contain no comparable provision.

Senate bill

Section 104 of the Senate bill would enable Vietnam-era veterans to convert their Vietnam-era GI Bill benefits to Montgomery GI Bill benefits if the veteran had eligibility for the Vietnam-era GI Bill benefits as of December 31, 1989, was not on active duty on October 19, 1984, and served 3 continuous years in the Armed Forces on or after July 1, 1985.

Compromise agreement

Section 105 of the compromise agreement follows the Senate language.

INCREASE IN MAXIMUM ALLOWABLE ANNUAL ROTC AWARD FOR ELIGIBILITY FOR BENEFITS UNDER THE MONTGOMERY GI BILL

Current law

Sections 3011(c)(3)(B) and 3012(d)(3)(B) of title 38, United States Code, provide that \$2,000 is the maximum annual amount of a partial scholarship that a participant in the Senior Reserve Officers' Training Corps (SROTC) may receive and still be eligible for basic educational assistance entitlement for service on active duty under the Montgomery GI Bill educational assistance program.

House bill

Section 101 of H.R. 801 would increase from \$2,000 to \$3,400 per year the amount a student under SROTC may receive in scholarship assistance and still retain eligibility for the Montgomery GI Bill—Active Duty under chapter 30, of title 38, United States Code.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 106 of the compromise agreement follows the House language.

EXPANSION OF WORK-STUDY OPPORTUNITIES

Current law

Section 3485(a)(1) of title 38, United States Code, establishes work-study policies for veteran-students and eligible dependents. In general, VA work-study students may prepare or process VA paperwork at schools or VA facilities, provide care at VA hospitals and domiciliaries, or work at Department of Defense facilities in certain circumstances.

House bill

Section 102 of H.R. 801 would expand work-study opportunities for veteran-students and eligible dependents to include: outreach services furnished by State Approving Agencies to servicemembers and veterans; activities for veteran-students and/or dependents (who have declared an academic major) within the department of an academic discipline that complements and reinforces the program of education pursued by the veteran-student; and the provision of chapter 17 of title 38, United States Code, domiciliary care and nursing home and hospital care to veterans, including state veterans homes.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 107 of the compromise agreement follows the House language that excludes work-study opportunities within the department of the veteran-student's academic discipline, and adds additional work-study opportunities through national and state veterans cemeteries.

ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE BENEFITS OF SPOUSES AND SURVIVING SPOUSES OF VETERANS WITH TOTAL SERVICE-CONNECTED DISABILITIES

Current law

Spouses of veterans who die of service-connected conditions, who are rated as totally and permanently disabled, or who die while rated as totally and permanently disabled, are eligible for Survivors' and Dependents' Educational Assistance (DEA) benefits. Prior to *Ozer v. Principi*, a 2001 decision by the U.S. Court of Appeals for Veterans Claims, 14 Vet. App. 257 (2001), VA applied a 10-year delimiting period during which spouses were eligible to use their DEA benefits. VA had been following regulations stating that the 10-year delimiting period began when eligibility is first established. However, the statute which authorized the DEA regulations prescribed that a spouse may not receive educational assistance beyond 10 years after the last occurrence of three eligibility criteria, one of which is the veteran's death. In its *Ozer* decision, the Court invalidated the VA regulation, reasoning that the delimiting period established by VA was in conflict with the authorizing statute.

House bill

The House bills contains no comparable provision.

Senate bill

Section 107 of the Senate bill would reinstate a 10-year delimiting period in which spouses may, upon first becoming eligible, use DEA benefits. Spouses made eligible for DEA under more than one of the eligibility criteria would have two separate 10-year delimiting periods in which to use their DEA benefits, but in no case would their aggregate entitlement exceed 45 months.

Compromise agreement

Section 108 of the compromise agreement follows the Senate language.

EXPANSION OF SPECIAL RESTORATIVE TRAINING BENEFIT TO CERTAIN DISABLED SPOUSES OR SURVIVING SPOUSES

Current law

Section 3541 of title 38, United States Code, provides that eligible children entitled to assistance under the Survivors' and Dependents' Educational Assistance program of chapter 35 may receive special restorative training to overcome or lessen the effects of a physical or mental disability and enable them to undertake a program of education.

House bill

Section 104 of H.R. 801 would expand the special restorative training benefit provided under the chapter 35 program to include certain disabled spouses or surviving spouses.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 109 of the compromise agreement follows the House language.

INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN THE DEFINITION OF EDUCATIONAL INSTITUTION

Current law

Section 3452(c) of title 38, United States Code, defines "educational institution" as any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, scientific or technical institution furnishing education for adults. Section 3501(a)(6) of title 38, United States Code, uses a substantively identical definition with the addition of any other institution if it furnishes education at the secondary school level or above.

House bill

Section 103 of H.R. 801 would expand the definition of an educational institution to include any private entity that offers, either directly or under an agreement with another entity, a course or courses to fulfill a requirement for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a technological occupation, as determined by the Secretary.

Senate bill

Section 105 of the Senate bill contains a substantively identical provision.

Compromise agreement

Section 110 of the compromise agreement follows the Senate language.

DISTANCE EDUCATION

Current law

Section 3680A(a)(4) of title 38, United States Code, limits the enrollment of an eligible veteran to an accredited independent study program (including open circuit television) leading to a standard college degree.

House bill

Section 105 of H.R. 801 would permit eligible veterans to receive VA education benefits while pursuing non college-degree courses that are offered through independent study by institutions of higher learning.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 111 of the compromise agreement follows the House language.

Title II—Compensation and Pension Provisions

MODIFICATION AND EXTENSION OF AUTHORITIES ON PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE-RELATED DISABILITIES OF VIETNAM-ERA VETERANS

Current law

Under section 1116(a)(2)(F) of title 38, the presumption of service-connection with respect to respiratory cancers is limited to those cancers manifesting within 30 years of a servicemember's last active-duty date in Vietnam.

The CAVC decision in *McCartt v. West*, 12 Vet. App. 164 (1999) held that the Department of Veterans Affairs (VA) can only presume exposure to Agent Orange if the Vietnam veteran has one of the diseases listed as related to such exposure in 38 U.S.C. § 1116(a) or 38 CFR § 3.309(e). VA practice prior to this decision had been to presume exposure for anyone who had served in Vietnam during the statutorily defined period of war unless there was affirmative evidence to the contrary.

Section 1116 authorizes the Secretary of Veterans' Affairs to establish, through regulation, a presumption of service-connection for diseases associated with exposure to Agent Orange. The Secretary is further authorized to contract with the National Academy of Sciences for the purposes of studying the effects of dioxin, and is required to base the establishment of a presumption of service-connection on NAS findings. This authority commenced in 1993 and will expire at the end of Fiscal Year 2003.

House bill

Section 201 of H.R. 2540 codifies VA's July 9, 2001, regulation providing benefits for Vietnam veterans with Type 2 diabetes.

Senate bill

Section 201 of the Senate bill would remove the 30-year limitation on the manifestation of respiratory cancer. This section would also change the result of the CAVC decision in *McCartt* by requiring VA to presume exposure to Agent Orange for all persons serving in Vietnam during the statutorily defined period of that conflict.

Section 201 would extend the Secretary's authority to determine a presumption of service-connection for additional diseases; based on future NAS Reports, through 2011. VA's authority to contract with the NAS to review scientific evidence on the effects of dioxin or herbicide exposure would be extended through 2011.

Compromise agreement

Section 201(a)(1) of the compromise agreement follows the Senate language, but modifies the effective date for subsection (a) of the Senate bill to January 1, 2002. Section 201(a)(2) of the compromise directs the Secretary to enter into a contract with the National Academy of Sciences specifically to review available scientific literature on exposure to herbicides and dioxin and the development of respiratory cancers. Section 201(a)(3) allows the Secretary to consider whether an upper limit on manifestation of respiratory cancers can be supported, and to impose such a limit by regulation if warranted, by available scientific evidence. Section 201(4) protects a grant of service-connection made under this section for purposes of all benefits administered by the Secretary; section 201(b) of the compromise agreement provides a statutory presumption of service-connection of Diabetes Type 2 for veterans exposed to Agent Orange and follows the House language; section 201(c) of the compromise agreement presumes that veterans who served in the Republic of Vietnam during the time period when herbicides were used were exposed to herbicides and follows

the Senate language; and section 201(d) of the compromise agreement extends the Secretary's authority to contract with NAS through October 1, 2014, and extends the Secretary's authority to determine a presumption of service-connection through September 30, 2015.

PAYMENT OF COMPENSATION FOR PERSIAN GULF WAR VETERANS WITH CERTAIN CHRONIC DISABILITIES

Current law

Public Law 103-446 gave the Secretary the authority to compensate a Gulf War veteran who suffers from disabilities that cannot be diagnosed or clearly defined, when other causes cannot be identified. Section 1117 of title 38, United States Code, sets forth parameters for compensating disabilities occurring in Gulf War veterans.

House bill

Section 202 of H.R. 2540 would expand, effective April 1, 2002, the definition of "undiagnosed illness" for Gulf War veterans to include fibromyalgia, chronic fatigue syndrome, and chronic multisymptom illness, as well as other illnesses that cannot be clearly defined. Signs and symptoms listed in the House bill that are associated with an undiagnosed illness include headache, muscle pain, joint pain, neurologic signs or symptoms, neuropsychological signs or symptoms, signs or symptoms involving the respiratory system (upper or lower), sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, and/or menstrual disorders.

Senate bill

Section 202(b) of the Senate bill would expand the definition of "undiagnosed illness" by adding poorly defined chronic multisymptom illnesses of unknown etiology, regardless of diagnosis, characterized by two or more of the symptoms already listed in VA regulations. This section would also extend the presumptive period for service connection for Gulf War veterans by 10 years.

Compromise agreement

Section 202 of the compromise agreement authorizes the Secretary effective March 1, 2002, to pay compensation to any eligible Gulf War veteran chronically disabled by an "undiagnosed illness," a "medically unexplainable chronic multisymptom illness defined by a cluster of signs or symptoms," or "any diagnosed illness that the Secretary determines in regulations prescribed under subsection (d) warrants a presumption of service-connection" (or any combination of these). The term "undiagnosed illnesses" has been interpreted by VA to preclude from eligibility for benefits under sections 1117 or 1118 of title 38, United States Code, any veteran who has received a diagnosis, even if that diagnosis is merely a descriptive label for a collection of unexplained symptoms. This provision's addition of "medically unexplained chronic multisymptom illness defined by a cluster of signs or symptoms" to the list of compensable conditions fully implements the intent of Public Law 103-446. Public Law 103-446 authorized the Secretary to compensate certain Gulf War veterans disabled by symptoms that could not be connected conclusively to specific wartime exposures otherwise not compensable under other existing statutory bases.

In selecting this language, it is the intent of the Committees to ensure eligibility for chronically disabled Gulf War veterans not withstanding a diagnostic label by a clinician in the absence of conclusive pathophysiology or etiology. The compromise agreement's definition encompasses a variety of unexplained clinical conditions,

characterized by overlapping symptoms and signs, that share features such as fatigue, pain, disability out of proportion to physical findings, and inconsistent demonstration of laboratory abnormalities. Aaron and Buchwald, A Review of the Evidence for Overlap Among Unexplained Clinical Conditions, 134(9) *Annals of Internal Medicine*:868-880 (2001). Although chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome are the most common diagnoses under this definition, other conditions that may be characterized similarly include other chronic musculoskeletal pain disorders and chronic headache disorders.

By listing the first three diagnoses as examples, it is the Committees' intent to give guidance to the Secretary rather than to limit eligibility for compensation based upon other similarly described conditions that may be defined or redefined in the future. The Committees do not intend this definition to assert that the cited syndromes can be clinically or scientifically linked to Gulf War service based on current evidence, nor do they intend to include chronic multisymptom illnesses of partially understood etiology and pathophysiology such as diabetes or multiple sclerosis.

In evaluating chronic multisymptom illnesses, the Committees expect that VA will develop a schedule for rating disabilities based on severity of symptoms and the degree to which these impair a veteran's ability to obtain and retain substantially gainful employment. The ratings schedule already established by VA in section 4.88b of 38 CFR (6354) for chronic fatigue syndrome bases the degree of disability on the veteran's incapacitation rather than specific medical findings. This schedule can be used as a model for rating disabilities stemming from chronic multisymptom illnesses in general.

The compromise agreement includes a technical correction substituting a date certain of October 1, 2010, for "10 years after the last day of the fiscal year in which the National Academy of Sciences (NAS) submits the first report" as written under current law in section 1603(j) of the Persian Gulf War Veterans Act of 1998. This provision requires the Secretary to contract with the NAS for five biennial reports on Gulf War health issues. The compromise also amends sections 1117 and 1118 of title 38, United States Code, to clarify that the authority of the Secretary to determine that a disease warrants presumptive service-connection based on these NAS reports continuing through September 30, 2011.

PRESERVATION OF SERVICE CONNECTION FOR UNDIAGNOSED ILLNESSES TO PROVIDE FOR PARTICIPATION IN RESEARCH PROJECTS BY GULF WAR VETERANS

Current law

Under current law, the Secretary does not have specific authority to protect a Persian Gulf War veteran's grant of service connection for an undiagnosed illness if, as a result of participating in a medical research study, the condition is diagnosed.

House bill

Section 203 of H.R. 2540 would authorize the Secretary to protect the grant of service connection for an undiagnosed illness when a Persian Gulf War veteran participates in a VA-sponsored medical research project. The Secretary would be required to publish in the Federal Register any medical research project whose participants would be protected under this section. The Secretary's authority extends to research projects commenced before, on or after date of enactment.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 203 of the compromise agreement protects veterans participating in medical research projects sponsored by the Department from loss of service-connection if the Secretary determines that such protection is necessary for conduct of the medical research. The Secretary is required to publish in the Federal Register a list of medical research projects sponsored by the Department for which service-connection is protected under this section.

REPEAL OF THE LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT VETERANS

Current law

Subsections (b) and (c) of section 5503 of title 38, United States Code, establishes that compensation and pension benefits cannot be issued to an incompetent, institutionalized veteran with no dependents whose assets exceed five times the 100-percent compensation rate. Public Law 106-419 raised the dollar amount of the cutoff from \$1,500 to its present level.

House bill

The House bills contain no comparable provision.

Senate bill

Section 209 of the Senate bill would repeal the asset limitation on payment of benefits to incompetent institutionalized veterans who have no dependents.

Compromise agreement

Section 204 of the compromise agreement follows the Senate language.

EXTENSION OF ROUND-DOWN REQUIREMENT FOR COMPENSATION COST-OF-LIVING ADJUSTMENTS

Current law

Under sections 1104 and 1303 of title 38, United States Code, the Secretary has the authority to round down to the next lower whole dollar amount in the computation of cost-of-living adjustments through fiscal year 2002.

House bill

The House bills contain no comparable provision.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 205 of the compromise agreement extends the Secretary's authority to round down to the next lower whole dollar amount the computation of cost-of-living adjustments through Fiscal Year 2011.

EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NONSERVICE-CONNECTED PENSION

Current law

Under section 1502(a) of title 38, United States Code, applicants for nonservice-connected pensions are considered to be totally and permanently disabled if they are unemployed, unable to follow a gainful occupation, or determined by the Secretary to be totally and permanently disabled. It is the Committees' understanding that VA regional office directors have been verbally instructed to implement a policy of presuming permanent and total disability for veterans who are patients in nursing homes for long-term care, or veterans determined permanently disabled by the Social Security Administration.

House bill

The House bills contain no comparable provision.

Senate bill

Section 203 of the Senate bill would presume that veterans who are in nursing

homes for long-term care; are determined to be permanently disabled by the Social Security Administration (SSA); are at least 65 years old and have no current, recurring income from employment; or are unemployable as a result of a disability reasonably certain to continue throughout life, are permanently and totally disabled for purposes of nonservice-connected pension. This provision would be made retroactive to September 10, 2001.

Compromise agreement

According to information provided to the Committees, VA has recently instructed its employees to adjudicate pension claims for veterans who are patients in long-term care facilities or who have been determined to be permanently disabled by the Social Security Administration without requiring a VA determination of disability. The Committees express their strong disapproval of the verbal manner in which the policy changes concerning evaluation of disability for patients in long-term care and those determined disabled by SSA were implemented. Verbally advising VA regional office directors to implement major policy changes without issuing either formal regulations or written guidance invites misinterpretation and confusion. The Committees strongly urge the Secretary to communicate all interpretative changes to policy in writing to appropriate officials, to make such instructions available to the public, and to comply with the notice and comment requirements of the Administrative Procedures Act for all substantive rules.

Section 206(a)(1) of the compromise agreement provides specific statutory authority for the evidentiary presumption verbally communicated to regional office directors for determining the eligibility of patients in a nursing home for long-term care to be disabled for purposes of pension benefits. The compromise agreement follows the Senate language and provides for an effective date of September 17, 2001, the date VA regional offices are believed to have implemented this policy.

Section 206(a)(2) of the compromise agreement provides that persons who have been determined disabled by the Social Security Administration (SSA) will be considered disabled for purposes of pension benefits. Since the Committees believe that a SSA disability determination is an appropriate evidentiary basis for considering a veteran disabled, the compromise agreement considers a veteran disabled if SSA has made a determination of disability. The bill provides for an effective date of September 17, 2001, the date VA regional offices are believed to have implemented this policy.

Section 206(a)(3) of the compromise agreement provides that a person shall be considered disabled if the veteran is unemployable as a result of disability reasonably certain to continue throughout the life of the person. The compromise agreement follows the Senate language.

Section 206(a)(4) restates provisions currently contained in section 1502(a)(1) and (2) of current law. The compromise agreement follows the Senate language.

ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR VETERANS' PENSION BENEFITS

Current law

Public Law 90-77 provided that a veteran is presumed disabled for purposes of pension benefits at age 65. Public Law 101-508 revoked the Secretary's authority to presume that a veteran was disabled for purposes of pension benefits at age 65. Although the Secretary lacks statutory authority to presume disability at age 65, it is the Committees' understanding that VA regional office directors

were verbally instructed to implement a policy of presuming disability for pension applicants aged 65 and older.

House bill

The House bills contain no comparable provision.

Senate bill

Section 203(a)(3) of the Senate bill would restore the presumption of disability for purposes of pension eligibility at age 65 for veterans who based on evidence available to the Secretary have no current recurring income from employment.

Compromise agreement

According to information provided to the Committees, VA has recently instructed its employees to adjudicate pension claims for veterans who are aged 65 or older and who have no wages from employment without requiring a VA determination of disability. The Committees express their strong disapproval of the Secretary's decision to ignore the requirements of Public Law 101-508 prohibiting a presumption of disability for purposes of pension eligibility at age 65 by verbally reinstating the policy, when the Secretary believes that legislation passed by Congress and enacted into law is unwise or administratively inefficient, it is the Secretary's responsibility to propose appropriate legislation to the Congress so that the problem identified can be corrected. Verbally instructing VA regional office directors to ignore statutory requirements and to presume that veterans are disabled at age 65 without authorizing legislation violates current law. The Committees expect the Secretary to advise Congress of any statutory provisions, which in the judgment of the Secretary are detrimental to caring for our Nation's veterans, and to transmit appropriate corrective legislative proposals for consideration.

Section 207 of the compromise agreement provides that a pension will be provided to wartime veterans aged 65 and older without regard to disability. These veterans must still meet the nondisability requirements of section 1521 of title 38, United States Code, such as income and net worth. In determining that benefits will be provided at age 65 without regard to employment status, the Committees noted that any veteran employed full-time and receiving at least a minimum wage would not qualify for pension based on the pension income limitation.

Nonetheless, the Committees agree that a policy of requiring proof of disability for an aged wartime veteran with incomes below the pension benefit amount involves use of scarce agency resources without a commensurate return. The Committees have determined that aged wartime veterans should be provided a needs-based pension under conditions similar to that provided for veterans of the Indian Wars and the Spanish-American War. The compromise agreement renders a wartime veteran eligible for a needs-based pension upon attaining age 65 effective September 17, 2001, the date VA regional offices are believed to have implemented a policy of providing a presumption of disability for wartime veterans aged 65 and older.

Title III—Transition and Outreach Provisions

AUTHORITY TO ESTABLISH OVERSEAS VETERANS ASSISTANCE OFFICES TO EXPAND TRANSITION ASSISTANCE

Current law

Sections 7722, 7723 and 7724 of title 38, United States Code, set forth VA's responsibilities with respect to outreach services, including outreach provided to separating servicemembers and eligible dependents. These sections do not specifically provide for

the establishment and maintenance of veterans' assistance offices on military installations outside of the United States, its territorial possessions, or the Commonwealth of Puerto Rico. Through a funding arrangement with the Department of Defense, VA currently assigns representatives overseas on a rotational basis in a number of locations with large military populations.

House bill

Section 201(a) of H.R. 801 would amend section 7723(a) of title 38, United States Code, to give the Secretary specific discretionary authority to establish veterans' assistance offices on such military installations in other locations as the Secretary determines necessary. In doing so, the Secretary would be required to consult with the Secretary of Defense.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 301 of the compromise agreement follows the House language.

TIMING OF PREPARATION COUNSELING

Current law

The Departments of Defense, Veterans Affairs, and Labor assist separating servicemembers with benefits and services to facilitate a successful transition to civilian life. Currently, section 1142(a)(1) of title 10, United States Code, requires that pre-separation counseling begin not less than 90 days prior to discharge or release.

House bill

Section 202 of H.R. 801 would change the timing of pre-separation counseling to begin as soon as possible during the 24-month period preceding an anticipated retirement and as soon as possible during the 12-month period preceding other separations, but in no event later than 90 days before the date of discharge or release. In case of an unanticipated retirement or other separation with 90 days fewer prior to separation, pre-separation counseling shall begin as soon as possible within the remaining period of service. Except in the case of a servicemember who is being retired or separated for a disability, the Secretary concerned would not be permitted to provide pre-separation counseling to a servicemember who is being discharged or released before the completion of that servicemember's first 180 days of active duty service.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 302 of the compromise agreement follows the House language.

IMPROVEMENT IN EDUCATION AND TRAINING OUTREACH SERVICES FOR SEPARATING SERVICEMEMBERS AND VETERANS

Current law

Section 3672(d) of title 38, United States Code, requires that the Secretary of Veterans Affairs actively promote the development of programs for purposes of section 3677 (on the job training) and section 3687 (apprenticeship or other on-job training).

House bill

Section 203 of H.R. 801 would require that State Approving Agencies (SAA), in addition to the Secretary, actively promote the development of VA programs of training on the job (including programs of apprenticeship) under chapter 36 of title 38, United States Code. Section 203 would also require SAAs, in conjunction with outreach services furnished by the Secretary for education and training benefits under chapter 77 of title 38,

United States Code, to conduct programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State law.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 303 of the compromise agreement follows the House language.

IMPROVEMENT OF VETERANS OUTREACH PROGRAMS

Current law

Section 7722(c) of title 38, United States Code requires the Secretary to distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Department and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) that the Secretary determines would be beneficial to veterans.

House bill

Section 205 of H.R. 801 would require VA, whenever a veteran or dependent first applies for any benefit (including a request for burial or related benefits or on application for life insurance proceeds), to provide information concerning all benefits and health services under programs administered by the Secretary.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 304 of the compromise agreement follows the House language with a modification that the Secretary provides the information within 3 months of the veteran or dependent making an initial contact with VA.

Title IV—Housing Matters

INCREASE OF THE VA HOME LOAN GUARANTY AMOUNT FOR CONSTRUCTION AND PURCHASE OF HOMES

Current law

Under section 3703 of title 38, United States Code, VA currently provides a guaranty of up to \$50,750 on home mortgage loans issued to eligible veterans by private lenders.

House bill

The House bills contain no comparable provision.

Senate bill

Section 301 of the Senate bill would increase the maximum home mortgage loan guaranty amount to \$63,175.

Compromise agreement

Section 401 of the compromise agreement would increase the maximum home mortgage loan guaranty amount to \$60,000.

NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

Current law

Section 3761 of title 38, United States Code, established a pilot program whereby the Secretary may make direct housing loans to Native American veterans to permit such veterans to purchase, construct, or improve dwellings on trust land. The pilot program expires on December 31, 2001.

Current law requires a tribe to enter into a Memorandum of Understanding (MOU) with VA before VA can make home loans to member of that tribe.

House bill

Section 404(a) of H.R. 2540 would extend to December 31, 2005, VA's direct loan program for Native American veterans living on trust

lands. Section 404(b) would amend section 3762(a)(1) of title 38, United States Code, to permit VA to make a direct housing loan to a member of a Native American tribe that has entered into an MOU with another federal agency if that MOU generally conforms to the requirements of VA's program.

Senate bill

Section 302 of the Senate bill extends the Native American veterans housing loan program to December 31, 2005. It also extends the requirement of an annual report under section 3762(j) through 2006.

Compromise agreement

Section 402 of the compromise agreement follows the House language with the addition of the reporting requirement until 2006.

MODIFICATION OF LOAN ASSUMPTION NOTICE REQUIREMENT

Current law

Section 3714(d) of title 38, United States Code, requires that all VA loans and security instruments contain on the first page in letters two and one half times the size of the regular type face used in the document, a statement that the loan is not assumable without approval of VA or its authorized agent.

House bill

Section 405 of H.R. 2540 would modify the requirement in section 3714(d) of title 38, United States Code, by requiring that such notice appear conspicuously on at least one instrument (such as a VA rider) under guidelines established by VA in regulations.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 403 of the compromise agreement follows the House language.

INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING

Current law

The Secretary is authorized in chapter 21 of title 38, United States Code, to assist eligible veterans in acquiring suitable housing and adaptations with special fixtures made necessary by the nature of the veterans's service-connected disability, and with the necessary land. The assistance authorized for a severely disabled veteran shall not exceed \$43,000. The amount authorized for less severely disabled veterans shall not exceed \$8,250.

House bill

Section 305 of H.R. 801 would increase the grant for specially adapted housing for severely disabled veterans to \$48,000 and for less severely disabled veterans to \$9,250.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 404 of the compromise agreement follows the House language.

EXTENSION OF OTHER HOUSING AUTHORITIES

Current law

Subsection 3702(a)(2)(E) of title 38, United States Code, authorizes VA to provide housing loan guaranties to members of the Selected Reserve through September 30, 2007; subsection 3720(h)(2) authorizes VA to issue guaranties of timely principal and interest payments on trust-issued securities backed by vendee loans through December 31, 2008; subsection 3729(b)(2) authorizes VA to charge a loan fee for VA home loan guaranties through October 1, 2008; and subsection 3732(c)(11) of title 38, United States Code, authorizes VA to apply specified procedures for

liquidation sales to defaulted home loans guaranteed by VA through October 1, 2008.

House bill

The House bills contain no comparable provision.

Senate bill

Section 303(a) of the Senate bill extends VA's authority to provide housing loan guaranties to members of the Selected Reserve through September 30, 2011; section 303(b) extends VA's loan asset sale authority through December 31, 2011; section 303(c) extends the VA's authority to charge a loan fee for VA home loan guaranties through October 1, 2011; and section 303(d) extends VA's authority to apply procedures for liquidation sales to defaulted home loans guaranteed by VA through October 1, 2011.

Compromise agreement

Section 405(a) of the compromise agreement extends the housing loan guaranties to members of the Selected Reserve through September 30, 2009; sections 405(b) through (d) of the compromise agreement follows the Senate language.

Title V—Other Matters

INCREASE IN BURIAL BENEFITS

Current law

Under section 2307 of title 38, United States Code, the Secretary, upon request of the survivors of a veteran, shall pay the burial and funeral expenses incurred in connection with the death of a veteran. In the case of a veteran who dies as the result of a service-connected disability, the amount would not exceed the greater of (1) \$1,500, or (2) the amount authorized to be paid under section 8134(a) of title 5, United States Code, in the case of a federal employee whose death occurs as the result of an injury sustained in the performance of duty. In the case of non-service-connected deaths, section 2302 of title 38, United States Code provides for a payment in the amount of \$300 for veterans in receipt of compensation or pension. Section 2303(b) of title 38, United States Code, also authorizes the Secretary to pay a \$150 plot allowance for eligible veterans buried in a state or private cemetery.

House bill

Section 301(a) of H.R. 801 would increase the burial and funeral allowance payable for service-connected deaths from \$1,500 to \$2,000, and for nonservice connected deaths from \$300 to \$500. Section 301(b) would increase the burial plot allowance from \$150 to \$300. Section 301(c) would require that such amounts payable under sections 2302 (funeral expenses), 2303 (plot allowance), and 2307 (death from service-connected disability) would be indexed to cost-of-living increases in benefits paid under the Social Security Act, title 42, United States Code.

Senate bill

Section 401 of the Senate bill would increase the burial benefits for service-connected deaths from \$1,500 to \$2,000.

Compromise agreement

Section 501 of the compromise bill would increase burial benefits for service-connected deaths from \$1,500 to \$2,000 effective September 11, 2001, and increase the plot allowance from \$150 to \$300 effective December 1, 2001.

GOVERNMENT MARKERS FOR MARKED GRAVES AT PRIVATE CEMETERIES

Current law

Section 2306 of title 38 limits the provision of headstones and grave markers by VA to the unmarked graves of veterans, or to commemorate the grave of an eligible person whose remains are unavailable. A veteran's family is permitted to obtain a private

marker later. However, if a veteran's family obtains a private marker first, the VA may not furnish a headstone or grave marker.

House bill

The House bill contains no comparable provision.

Senate bill

Section 402 of S. 1088 would allow the Secretary of VA to furnish bronze markers for already privately marked graves. This section would permit the marker to be located in an appropriate place to be determined by the cemetery concerned, within the grounds of the cemetery. Eligibility for grave markers would apply to deaths occurring after the date of enactment of this provision and deaths occurring before its enactment, but after November 1, 1990, so long as the request for the marker is made within 4 years after the enactment date.

Compromise agreement

Section 502 of the compromise agreement creates a five-year program requiring the Secretary to furnish a bronze marker to those families that request a government marker for the marked grave of a veteran at a private cemetery. The Secretary is required to furnish the marker directly to the cemetery and the family is required to place the marker on the veteran's gravesite. Not later than February 1, 2006, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the use of this five-year authority to include: the rate and cost of the use of the benefit by fiscal year; an assessment if the extent to which markers are being delivered to cemeteries and placed on gravesites; and the Secretary's recommendation for extension or repeal of the December 31, 2006, expiration date. The Committees note that the Secretary should implement this provision in a flexible manner in light of requests for grave markers predating this provision.

INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS

Current law

Under section 3902(a) of title 38, United States Code, the Secretary may pay up to \$8,000 (including all state, local, and other taxes) to an eligible disabled service member or veteran to purchase an automobile.

House bill

Section 304 of H.R. 801 would increase the amount of assistance for automobile grants from \$8,000 to \$9,000.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 503 of the compromise agreement follows the House language.

EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE

Current law

Under section 5503(f) of title 38, United States Code, VA pension paid to certain veterans receiving Medicaid-covered nursing home care is reduced to \$90 per month. VA's authority to reduce the pension amount expires on September 30, 2008.

House bill

The House bills contain no comparable provision.

Senate bill

Section 210 of the Senate bill would extend through September 30, 2011, the \$90 per month cap on VA pensions paid to certain veterans receiving Medicaid-covered nursing home care.

Compromise agreement

Section 504 of the compromise agreement follows the Senate language.

PROHIBITION OF VETERANS RECEIVING BENEFITS WHILE FUGITIVE FELONS

Current law

Public Law 104-193 bars fugitive felons from receiving Supplemental Security Insurance from the Social Security Administration and food stamps from the Department of Agriculture. Currently, there is no law barring veterans who are fugitive felons from receiving VA benefits.

House bill

The House bills contain no comparable provision.

Senate bill

Section 207 of the Senate bill would prohibit veterans and eligible dependents from receiving veterans benefits while a "fugitive," which is defined under this section as fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the veteran flees.

Compromise agreement

Section 505 of the compromise agreement substantially follows the Senate language.

LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED SINCE OCTOBER 7, 1980

Current law

Under section 5313(d) of title 38, United States Code, compensation paid to any veteran incarcerated after October 7, 1980, is reduced to a level equal to the compensation rate for a 10 percent disability with the balance allowed to be apportioned to the veteran's dependents, if any.

House bill

The House bills contain no comparable provision.

Senate bill

Section 208 of the Senate bill would apply the restrictions listed in section 5313(d) of title 38, United States Code, to veterans incarcerated before October 7, 1980. This provision would not affect any payments made prior to the enactment of this legislation.

Compromise agreement

Section 506 of the compromise agreement follows the Senate language. It is the Committees' hope that VA will receive all necessary cooperation from the state and federal prison systems in implementing this provision, such as the timely compiling of data of incarcerated veterans affected by this change in law.

ELIMINATION OF REQUIREMENT FOR PROVIDING A COPY OF NOTICE OF APPEAL TO THE SECRETARY OF VETERANS AFFAIRS

Current law

Section 7266(b) of title 38, United States Code, requires an individual appealing a decision of the Board of Veterans' Appeals to furnish the Secretary of Veterans Affairs with a copy of his or her notice of appeal to the U.S. Court of Appeals for Veterans Claims.

House bill

Section 406 of H.R. 2540 repeals section 7266(b) of title 38, United States Code.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 507 of the compromise agreement follows the House language.

INCREASE IN FISCAL YEAR LIMITATION ON THE NUMBER OF VETERANS IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE

Current law

Under section 3120 of title 38, United States Code, VA's Vocational Rehabilitation and Employment Service maintains an independent living program designed to assist service-disabled veterans, who are to be disabled to retrain for employment, in achieving and maintaining defined independent living outcomes. Subsection 3120(e) of this title limits participation in this program to no more than 500 veteran participants per fiscal year. Despite this limitation, VA has been providing services to approximately 2,400 veterans per year.

House bill

The House bills contain no comparable provision.

Senate bill

Section 501 of the Senate bill would eliminate the 500-veteran cap for participants of the independent living program, and would retain first priority to veterans for whom there is a reasonable feasibility of achieving a vocational goal but for their service-connected condition.

Compromise agreement

Section 508 of the compromise agreement would increase the maximum number of veterans allowed to participate in the VA independent living program to 2,500, and would retain first priority to veterans for whom there is a reasonable feasibility of achieving a vocational goal but for their service-connected condition.

While the Committees acknowledge the value of this program, the Committees strongly disapprove of VA's apparent decision to ignore the limitations in current law. When a limitation contains in current law proves detrimental to veterans, the Committees expect that the Secretary will not proceed to ignore the law, but rather to present the Congress with appropriate corrective legislation. In the event that the number currently authorized proves to be insufficient to meet the needs of our Nation's disabled veterans, the Committees direct the Secretary to propose appropriate legislation to Congress.

Title VI—U.S. Court of Appeals for Veterans Claims

FACILITATION OF STAGGERED TERMS OF JUDGES THROUGH TEMPORARY EXPANSION OF THE COURT

Current law

Section 7253 of title 38, United States Code, requires that the U.S. Court of Appeals for Veterans Claims (CAVC) shall be composed of no more than seven judges and one shall be chief judge. After the Court's establishment in 1988, the initial seven judges were appointed within 16 months of one another. A new judge was appointed in 1997 to fill a vacancy created by the death of one of the originally appointed judges. The chief judge retired in 2000, and his seat has not yet been filled. By 2005, the terms of five of the remaining judges will have ended. This will likely leave four simultaneously vacant seats by 2005.

House bill

The House bills contain no comparable provision.

Senate bill

Section 601 of the Senate bill would temporarily expand the membership of the CAVC by two seats until August 2005 in order to bridge the retirement of the original judges.

Compromise agreement

Section 601 of the compromise agreement follows the Senate language.

REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF RE-APPOINTMENT AS CONDITION TO RETIREMENT FROM THE COURT

Current law

Section 7296(b)(2) of title 38, United States Code, requires a judge who has not been reappointed following the expiration of his or her appointed term, before that judge is 65 years old, as a precondition to retirement, to advise the President, in writing, that the judge is willing to accept reappointment.

House bill

The House bills contain no comparable provision.

Senate bill

Section 602 of the Senate bill would repeal the requirement that a judge provide written notice indicating willingness to accept reappointment as a precondition to retirement from the CAVC.

Compromise agreement

Section 602 of the compromise agreement follows the Senate language.

TERMINATION OF NOTICE OF DISAGREEMENT AS JURISDICTIONAL REQUIREMENT FOR THE COURT

Current law

Under section 402 of the Veterans' Judicial Review Act (Public Law 100-687; 38 U.S.C. §7251 note) (VJRA), a Notice of Disagreement (NOD) must have been filed on or after November 18, 1988, in order to establish jurisdiction necessary for the CAVC to review a claimant's case. Section 403 of the VJRA (102 Stat. 4122; 38 U.S.C. §5904 note) limits the payment of attorney fees to cases in which a post-November 17, 1988, NOD has been filed.

House bill

The House bills contain no comparable provision.

Senate bill

Section 603(a) of the Senate bill would eliminate the post-November 17, 1988, NOD as a prerequisite to jurisdiction at the CAVC. It would not affect the requirement of a NOD to trigger appeal within VA of a decision nor any other prerequisite to review at the Court. Section 603(b) of the Senate bill would similarly eliminate the limitation on payment of attorney fees to those cases in which a post-November 17, 1988, NOD has been filed.

Compromise agreement

Section 603 of the compromise agreement follows the Senate language.

REGISTRATION FEES

Current law

Section 7285 of title 38, United States Code, provides that the CAVC may impose periodic registration fees on persons admitted to practice before the Court. These fees may be used for purposes of hiring independent counsel to pursue disciplinary matters and defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court.

House bill

Section 301(a) of H.R. 2540 would authorize the Court to collect registration fees for persons participating in a judicial conference or other Court-sponsored activities where appropriate.

Section 301(b) of H.R. 2540 would amend section 7285(b) of title 38, United States Code, to add that registration fees paid to the Court may also be used generally in connection with practitioner disciplinary proceedings and in support of certain bench-and-bar veterans' law educational activities.

Senate bill

Section 604 of the Senate bill contains a comparable provision.

Compromise agreement

Section 604 of the compromise agreement follows the House language.

ADMINISTRATIVE AUTHORITIES

Current law

The CAVC, established by Congress under Article I of the United States Constitution to exercise judicial power, has unusual status as an independent tribunal that does not have the same general administrative authority as courts established under Article III of the Constitution. Because of its status, the Court does not have available to it certain general authorities that would normally be available were it part of the executive branch or another administrative structure.

House bill

Section 302 of H.R. 2540 would add a new section 7287 to title 38, United States Code, to make available to the Court generally the same management, administrative, and expenditure authorities that are available to Article III courts of the United States.

Senate bill

Section 605 of the Senate bill contains a comparable provision.

Compromise agreement

Section 605 of the compromise agreement follows the House language.

LEGISLATIVE PROVISIONS NOT ADOPTED

AUTHORITY FOR ACCELERATED PAYMENTS OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL

Current law

Section 3014 of title 38 provides that the basic educational benefit available under the Montgomery GI Bill be disbursed in up to 36 monthly installments. Benefits are provided for each month in which the MGIB participant is certified to be participating in a course of study. If requested by a veteran, section 3680(d)(2) of title 38 allows for an advance payment of educational assistance in an amount equivalent to the allowance for the month, or fraction thereof, in which pursuit of an education program will commence, plus the allowance for the succeeding month.

House bill

The House bills contain no comparable provision.

Senate bill

Section 102 of the Senate bill would allow Montgomery GI Bill participants to receive their otherwise monthly payment as an accelerated lump-sum payment for the month in which a course of study begins, plus up to 4 months worth of educational assistance allowance. In the case of a term, quarter, or semester, the accelerated lump-sum payment would equal the amount of the aggregate monthly educational assistance allowance for the entire term, quarter, or semester.

PRESUMPTIVE PERIOD FOR UNDIAGNOSED ILLNESSES

Current law

Section 1117(b) of title 38 United States Code authorizes the Secretary to extend the period of presumption of service connection for Persian Gulf War veterans disabled by undiagnosed illnesses by regulation. On October 12, 2001, the Secretary published a regulation extending the presumptive period through December 31, 2006.

House bill

Section 204 of H.R. 2540 extends the presumptive period for undiagnosed illnesses to December 31, 2003.

Senate bill

Section 202(a) of the Senate bill extended the presumptive period for undiagnosed illnesses to December 31, 2011, or such later date as the Secretary may prescribe by regulation.

REVISION OF RULES WITH RESPECT TO NET WORTH LIMITATION FOR ELIGIBILITY FOR PENSIONS FOR VETERANS WHO ARE PERMANENTLY AND TOTALLY DISABLED FROM A NONSERVICE-CONNECTED DISABILITY

Current law

The VA Pension Program at chapter 15 of title 38, United States Code, provides financial assistance based upon need to veterans who have had at least 90 days of military service, including at least one day of wartime service, and who are totally and permanently disabled for employment purposes as a result of disability not related to their military service. In determining eligibility for pension benefits, VA is required to consider not only the family income, but also the family's "net worth." The value of farm and ranch land is included in determining net worth unless VA determines that land can be sold at "no substantial sacrifice," section 3.275 of chapter 38, Code of Federal Regulations.

House bill

Section 306 of H.R. 801 would revise the rule with respect to net worth limitation for VA's means-tested pension program by excluding the value of property used for farming, ranching, or similar agricultural purposes.

Senate bill

The Senate bill contains no comparable provision.

MODIFICATION OF THE TIME LIMITATION FOR RECEIPT OF CLAIM INFORMATION

Current law

Under section 5103(b) of title 38 there exists a one-year time limit, following notification by the Secretary, on the receipt of information and evidence necessary to substantiate a claim for benefits based on an already complete or substantially complete application. Public Law 106-475 established this time limitation and eliminated an identical limitation on the receipt of information and evidence necessary to complete an application for benefits.

House bill

The House bills contain no comparable provision.

Senate bill

Section 205 of the Senate bill would restore the one-year time limit on the receipt of information or evidence necessary to complete an application following notification by the Secretary. It would also eliminate the existing one-year time limit on information or evidence necessary to substantiate a claim based on a completed or substantially complete application.

MODIFICATION OF THE EFFECTIVE DATE OF CHANGE IN RECURRING INCOME FOR PENSION PURPOSES

Current law

Section 5112(b)(4) of title 38, United States Code, requires VA pensions be reduced or discontinued effective the first day of the month following the month in which the pensioner's net income is reported to have increased.

House bill

The House bills contain no comparable provision.

Senate bill

Section 206 of the Senate bill would modify the effective date of reduction or discontinuation of compensation or pension by reason of a change in recurring income to the first day of the year following the year in which the pensioner's net income is reported to have changed.

PAYMENT OF INSURANCE PROCEEDS TO AN ALTERNATE BENEFICIARY WHEN FIRST BENEFICIARY CANNOT BE IDENTIFIED

Current law

Under chapter 19 of title 38, United States Code, there is no time limitation for a first-named beneficiary of a National Service Life Insurance (NSLI) or a United States Government Life Insurance (USGLI) policy to file a claim for proceeds. As a result, when the insured dies and the beneficiary does not file a claim, VA is required to hold the unclaimed funds indefinitely in order to honor any possible future claims by that beneficiary. VA is not permitted to pay the proceeds to an alternate beneficiary unless VA can determine that the first beneficiary predeceased the policyholder.

House bill

Section 401 of H.R. 2540 would grant the Secretary of Veterans Affairs the authority to authorize payment of NSLI or USGLI proceeds to an alternate beneficiary when the proceeds have not been claimed by the first-named beneficiary within three years following the death of the policyholder. If no beneficiary has filed a claim within five years of the veteran's death, benefits could be paid to such person as the Secretary determines is equitably entitled to the proceeds of the policy.

Senate bill

The Senate bill contains no comparable provision.

EXTENSION OF COPAYMENT REQUIREMENT FOR OUTPATIENT PRESCRIPTION MEDICATIONS

Current law

Section 1722A(c) of title 38, United States Code, furnishes the Secretary the authority, through September 30, 2002, to require a copayment of \$2 for each 30-day supply of medication VA furnishes a veteran on an outpatient basis for the treatment of a non-service connected disability or condition.

House bill Section 402 of H.R. 2540 would extend until September 30, 2006, the authority of the Secretary to require a \$2 copayment for each 30-day supply of medication.

Senate bill

The Senate bill contains no comparable provision.

DEPARTMENT OF VETERANS AFFAIRS HEALTH SERVICES IMPROVEMENT FUND MADE SUBJECT TO APPROPRIATIONS

House bill

Section 403 of H.R. 2540 would amend section 1729E of title 38, United States Code, by making the availability of funds in the VA's Health Services Improvement Fund subject to the provisions of appropriations acts effective October 1, 2001.

Senate bill

The Senate bill contains no comparable provision.

PILOT PROGRAM FOR EXPANSION OF TOLL-FREE TELEPHONE ACCESS TO VETERANS SERVICE REPRESENTATIVES

Current law

VA provides various toll-free automated telephone response systems for veterans to furnish them information on VA benefits and services.

House bill

Section 407 of H.R. 2540 would establish a two-year nationwide pilot program to test the benefit and cost effectiveness of expanding current access to VA veterans service representatives through a toll-free telephone number. Under the pilot program, the Secretary would be required to expand the available hours of such access to veterans service representatives to not less than twelve hours on each regular business day across U.S. time zones and not less than six hours on Saturday. The pilot would also require that such service representatives have available to them information about veterans benefits provided by all other federal departments and agencies, and state governments.

Senate bill

The Senate bill contains no comparable provision.

CODIFICATION OF RECURRING PROVISIONS IN ANNUAL DEPARTMENT OF VETERANS AFFAIRS APPROPRIATIONS ACTS

Current law

Each year the Congress appropriates funds to the Department of Veterans Affairs as part of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act. Although the amount of the appropriations

varies from year to year, the purposes for which appropriations are made are generally fixed, and change little, if any, from year to year.

House bill

Section 409 of H.R. 2540 would codify recurring provisions in annual Department of Veterans Affairs Appropriations Acts.

Senate bill

The Senate bill contains no comparable provision.

ORDERS FOR FRIDAY, DECEMBER 14, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, December 14; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes tomorrow. The next rollcall votes will occur on Tuesday, December 18, at approximately 11 a.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:08 p.m., adjourned until Friday, December 14, 2001, at 9:30 a.m.