

Public Law 106-117
106th Congress

An Act

To amend title 38, United States Code, to establish a program of extended care services for veterans, to make other improvements in health care programs of the Department of Veterans Affairs, to enhance compensation, memorial affairs, and housing programs of the Department of Veterans Affairs, to improve retirement authorities applicable to judges of the United States Court of Appeals for Veterans Claims, and for other purposes.

Nov. 30, 1999

[H.R. 2116]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans Millennium Health Care and Benefits Act”.

(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.
- Sec. 3. Secretary and Department defined.

TITLE I—ACCESS TO CARE

Subtitle A—Long-Term Care

- Sec. 101. Requirement to provide extended care services.
- Sec. 102. Pilot programs relating to long-term care.
- Sec. 103. Pilot program relating to assisted living.

Subtitle B—Other Access to Care Matters

- Sec. 111. Reimbursement for emergency treatment in non-Department of Veterans Affairs facilities.
- Sec. 112. Eligibility for care of combat-injured veterans.
- Sec. 113. Access to care for TRICARE-eligible military retirees.
- Sec. 114. Treatment and services for drug or alcohol dependency.
- Sec. 115. Counseling and treatment for veterans who have experienced sexual trauma.
- Sec. 116. Specialized mental health services.

TITLE II—MEDICAL PROGRAM ADMINISTRATION

- Sec. 201. Medical care collections.
- Sec. 202. Health Services Improvement Fund.
- Sec. 203. Allocation to health care facilities of amounts made available from Medical Care Collections Fund.
- Sec. 204. Authority to accept funds for education and training.
- Sec. 205. Extension of certain authorities.
- Sec. 206. Reestablishment of Committee on Post-Traumatic Stress Disorder.
- Sec. 207. State home grant program.
- Sec. 208. Expansion of enhanced-use lease authority.
- Sec. 209. Ineligibility for employment by Veterans Health Administration of health care professionals who have lost license to practice in one jurisdiction while still licensed in another jurisdiction.
- Sec. 210. Report on coordination of procurement of pharmaceuticals and medical supplies by the Department of Veterans Affairs and the Department of Defense.

Veterans
Millennium
Health Care and
Benefits Act.
38 USC 101 note.

Sec. 211. Reimbursement of medical expenses of veterans located in Alaska.

TITLE III—MISCELLANEOUS MEDICAL PROVISIONS

Sec. 301. Review of proposed changes to operation of medical facilities.

Sec. 302. Patient services at Department facilities.

Sec. 303. Chiropractic treatment.

Sec. 304. Designation of hospital bed replacement building at Ioannis A. Lougaris Department of Veterans Affairs Medical Center, Reno, Nevada.

TITLE IV—CONSTRUCTION AND FACILITIES MATTERS

Sec. 401. Authorization of major medical facility projects.

Sec. 402. Authorization of major medical facility leases.

Sec. 403. Authorization of appropriations.

TITLE V—BENEFITS AND EMPLOYMENT MATTERS

Subtitle A—Compensation and DIC

Sec. 501. Dependency and indemnity compensation for surviving spouses of former prisoners of war.

Sec. 502. Reinstatement of certain benefits for remarried surviving spouses of veterans upon termination of their remarriage.

Sec. 503. Presumption that bronchiolo-alveolar carcinoma is service-connected.

Subtitle B—Employment

Sec. 511. Clarification of veterans' civil service employment opportunities.

TITLE VI—MEMORIAL AFFAIRS MATTERS

Subtitle A—American Battle Monuments Commission

Sec. 601. Codification and expansion of authority for World War II memorial.

Sec. 602. General authority to solicit and receive contributions.

Sec. 603. Intellectual property and related items.

Sec. 604. Technical amendments.

Subtitle B—National Cemeteries

Sec. 611. Establishment of additional national cemeteries.

Sec. 612. Use of flat grave markers at Santa Fe National Cemetery, New Mexico.

Sec. 613. Independent study on improvements to veterans' cemeteries.

Subtitle C—Burial Benefits

Sec. 621. Independent study on improvements to veterans' burial benefits.

TITLE VII—EDUCATION AND HOUSING MATTERS

Subtitle A—Education Matters

Sec. 701. Availability of Montgomery GI Bill benefits for preparatory courses for college and graduate school entrance exams.

Sec. 702. Determination of eligibility period for members of the Armed Forces commissioned following completion of officer training school.

Sec. 703. Report on veterans' education and vocational training benefits provided by the States.

Sec. 704. Technical amendments.

Subtitle B—Housing Matters

Sec. 711. Extension of authority for housing loans for members of the Selected Reserve.

Sec. 712. Technical amendment relating to transitional housing loan guarantee program.

TITLE VIII—DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATIVE MATTERS

Sec. 801. Enhanced quality assurance program within the Veterans Benefits Administration.

Sec. 802. Extension of authority to maintain a regional office in the Republic of the Philippines.

Sec. 803. Extension of Advisory Committee on Minority Veterans.

Sec. 804. Technical amendment to automobile assistance program.

TITLE IX—HOMELESS VETERANS PROGRAMS

Sec. 901. Homeless veterans' reintegration programs.

- Sec. 902. Extension of program of housing assistance for homeless veterans.
Sec. 903. Homeless veterans programs.
Sec. 904. Plan for evaluation of performance of programs to assist homeless veterans.

TITLE X—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

- Sec. 1001. Short title.
Sec. 1002. Definition.

Subtitle A—Transitional Provisions To Stagger Terms of Judges

- Sec. 1011. Early retirement authority for current judges.
Sec. 1012. Modified terms for next two judges appointed to the Court.

Subtitle B—Other Matters Relating to Retired Judges

- Sec. 1021. Recall of retired judges.
Sec. 1022. Judges' retired pay.
Sec. 1023. Survivor annuities.
Sec. 1024. Limitation on activities of retired judges.

Subtitle C—Rotation of Service of Judges as Chief Judge of the Court

- Sec. 1031. Repeal of separate appointment of chief judge.
Sec. 1032. Designation and term of chief judge of Court.
Sec. 1033. Salary.
Sec. 1034. Precedence of judges.
Sec. 1035. Conforming amendments.
Sec. 1036. Applicability of amendments.

TITLE XI—VOLUNTARY SEPARATION INCENTIVE PROGRAM

- Sec. 1101. Short title.
Sec. 1102. Plan for payment of voluntary separation incentive payments.
Sec. 1103. Voluntary separation incentive payments.
Sec. 1104. Effect of subsequent employment with the Government.
Sec. 1105. Additional agency contributions to Civil Service Retirement and Disability Fund.
Sec. 1106. Continued health insurance coverage.
Sec. 1107. Prohibition of reduction of full-time equivalent employment level.
Sec. 1108. Regulations.
Sec. 1109. Limitation; savings clause.
Sec. 1110. Eligible employees.

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.

SEC. 3. SECRETARY AND DEPARTMENT DEFINED.

38 USC 101 note.

For purposes of this Act—

- (1) the term "Secretary" means the Secretary of Veterans Affairs; and
- (2) the term "Department" means the Department of Veterans Affairs.

TITLE I—ACCESS TO CARE

Subtitle A—Long-Term Care

SEC. 101. REQUIREMENT TO PROVIDE EXTENDED CARE SERVICES.

(a) **REQUIRED NURSING HOME CARE.**—(1) Chapter 17 is amended by inserting after section 1710 the following new section:

"§ 1710A. Required nursing home care

"(a) The Secretary shall provide nursing home care which the Secretary determines is needed (1) to any veteran in need of such

care for a service-connected disability, and (2) to any veteran who is in need of such care and who has a service-connected disability rated at 70 percent or more.

“(b)(1) The Secretary shall ensure that a veteran described in subsection (a) who continues to need nursing home care is not, after placement in a Department nursing home, transferred from the facility without the consent of the veteran, or, in the event the veteran cannot provide informed consent, the representative of the veteran.

“(2) Nothing in subsection (a) may be construed as authorizing or requiring that a veteran who is receiving nursing home care in a Department nursing home on the date of the enactment of this section be displaced, transferred, or discharged from the facility.

Termination
date.

“(c) The provisions of subsection (a) shall terminate on December 31, 2003.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1710 the following new item:

“1710A. Required nursing home care.”

(b) **REQUIRED NONINSTITUTIONAL EXTENDED CARE SERVICES.**—Section 1701 is amended by adding at the end the following new paragraph:

“(10)(A) During the period beginning on the date of the enactment of the Veterans Millennium Health Care and Benefits Act and ending on December 31, 2003, the term ‘medical services’ includes noninstitutional extended care services.

“(B) For the purposes of subparagraph (A), the term ‘noninstitutional extended care services’ means such alternatives to institutional extended care which the Secretary may furnish (i) directly, (ii) by contract, or (iii) (through provision of case management) by another provider or payor.”

(c) **PROGRAM OF EXTENDED CARE SERVICES.**—(1) Chapter 17 is amended by inserting after section 1710A, as added by subsection (a), the following new section:

“§ 1710B. Extended care services

“(a) The Secretary (subject to section 1710(a)(4) of this title and subsection (c) of this section) shall operate and maintain a program to provide extended care services to eligible veterans in accordance with this section. Such services shall include the following:

“(1) Geriatric evaluation.

“(2) Nursing home care (A) in facilities operated by the Secretary, and (B) in community-based facilities through contracts under section 1720 of this title.

“(3) Domiciliary services under section 1710(b) of this title.

“(4) Adult day health care under section 1720(f) of this title.

“(5) Such other noninstitutional alternatives to nursing home care as the Secretary may furnish as medical services under section 1701(10) of this title.

“(6) Respite care under section 1720B of this title.

“(b) The Secretary shall ensure that the staffing and level of extended care services provided by the Secretary nationally in facilities of the Department during any fiscal year is not less than

the staffing and level of such services provided nationally in facilities of the Department during fiscal year 1998.

“(c)(1) Except as provided in paragraph (2), the Secretary may not furnish extended care services for a non-service-connected disability other than in the case of a veteran who has a compensable service-connected disability unless the veteran agrees to pay to the United States a copayment (determined in accordance with subsection (d)) for any period of such services in a year after the first 21 days of such services provided that veteran in that year.

“(2) Paragraph (1) shall not apply—

“(A) to a veteran whose annual income (determined under section 1503 of this title) is less than the amount in effect under section 1521(b) of this title; or

“(B) with respect to an episode of extended care services that a veteran is being furnished by the Department on the date of the enactment of the Veterans Millennium Health Care and Benefits Act.

“(d)(1) A veteran who is furnished extended care services under this chapter and who is required under subsection (c) to pay an amount to the United States in order to be furnished such services shall be liable to the United States for that amount.

“(2) In implementing subsection (c), the Secretary shall develop a methodology for establishing the amount of the copayment for which a veteran described in subsection (c) is liable. That methodology shall provide for—

“(A) establishing a maximum monthly copayment (based on all income and assets of the veteran and the spouse of such veteran);

“(B) protecting the spouse of a veteran from financial hardship by not counting all of the income and assets of the veteran and spouse (in the case of a spouse who resides in the community) as available for determining the copayment obligation; and

“(C) allowing the veteran to retain a monthly personal allowance.

“(e)(1) There is established in the Treasury of the United States a revolving fund known as the Department of Veterans Affairs Extended Care Fund (hereafter in this section referred to as the ‘fund’). Amounts in the fund shall be available, without fiscal year limitation and without further appropriation, exclusively for the purpose of providing extended care services under subsection (a).

“(2) All amounts received by the Department under this section shall be deposited in or credited to the fund.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1710A, as added by subsection (a)(2), the following new item:

“1710B. Extended care services.”

(d) ADULT DAY HEALTH CARE.—Section 1720(f)(1)(A) is amended to read as follows:

“(f)(1)(A) The Secretary may furnish adult day health care services to a veteran enrolled under section 1705(a) of this title who would otherwise require nursing home care.”

(e) RESPITE CARE PROGRAM.—Section 1720B is amended—

(1) in subsection (a), by striking “eligible” and inserting “enrolled”;

(2) in subsection (b)—

(A) by striking “the term ‘respite care’ means hospital or nursing home care” and inserting “the term ‘respite care services’ means care and services”;

(B) by striking “is” at the beginning of each of paragraphs (1), (2), and (3) and inserting “are”; and

(C) by striking “in a Department facility” in paragraph (2); and

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

“(c) In furnishing respite care services, the Secretary may enter into contract arrangements.”.

(f) CONFORMING AMENDMENTS.—Section 1710(a) is amended—

(1) in paragraph (1), by striking “, and may furnish nursing home care,”;

(2) in paragraph (2)(A), by inserting “or, with respect to nursing home care during any period during which the provisions of section 1710A(a) of this title are in effect, a compensable service-connected disability rated less than 70 percent” after “50 percent”;

(3) in paragraph (4), by inserting “, and the requirement in section 1710B of this title that the Secretary provide a program of extended care services,” after “medical services”; and

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

“(5) During any period during which the provisions of section 1710A(a) of this title are not in effect, the Secretary may furnish nursing home care which the Secretary determines is needed to any veteran described in paragraph (1), with the priority for such care on the same basis as if provided under that paragraph.”.

(g) STATE HOMES.—Section 1741(a)(2) is amended by striking “adult day health care in a State home” and inserting “extended care services described in any of paragraphs (4) through (6) of section 1710B(a) of this title under a program administered by a State home”.

(h) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Subsection (c) of section 1710B of title 38, United States Code (as added by subsection (b)), shall take effect on the effective date of regulations prescribed by the Secretary of Veterans Affairs under subsections (c) and (d) of such section. The Secretary shall publish the effective date of such regulations in the Federal Register.

(3) The provisions of section 1710(f) of title 38, United States Code, shall not apply to any day of nursing home care on or after the effective date of regulations under paragraph (2).

(i) REPORT.—Not later than January 1, 2003, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the operation of this section (including the amendments made by this section). The Secretary shall include in the report—

(1) the Secretary's assessment of the experience of the Department under the provisions of this section;

(2) the costs incurred by the Department under the provisions of this section and a comparison of those costs with the Secretary's estimate of the costs that would have been

38 USC 1710B
note.

Federal Register,
publication.

Deadline.
38 USC 1710A
note.

incurred by the Secretary for extended care services if this section had not been enacted; and

(3) the Secretary's recommendations, with respect to the provisions of section 1710A(a) of title 38, United States Code, as added by subsection (a), and with respect to the provisions of section 1701(10) of such title, as added by subsection (b), as to—

(A) whether those provisions should be extended or made permanent; and

(B) what modifications, if any, should be made to those provisions.

SEC. 102. PILOT PROGRAMS RELATING TO LONG-TERM CARE.

38 USC 1710B
note.

(a) **PILOT PROGRAMS.**—The Secretary shall carry out three pilot programs for the purpose of determining the effectiveness of different models of all-inclusive care-delivery in reducing the use of hospital and nursing home care by frail, elderly veterans.

(b) **LOCATIONS OF PILOT PROGRAMS.**—In selecting locations in which the pilot programs will be carried out, the Secretary may not select more than one location in any given health care region of the Veterans Health Administration.

(c) **SCOPE OF SERVICES UNDER PILOT PROGRAMS.**—Each of the pilot programs under this section shall be designed to provide participating veterans with integrated, comprehensive services which include the following:

(1) Adult-day health care services on an eight-hour per day, five-day per week basis.

(2) Medical services (including primary care, preventive services, and nursing home care, as needed).

(3) Coordination of needed services.

(4) Transportation services.

(5) Home care services.

(6) Respite care.

(d) **PROGRAM REQUIREMENTS.**—In carrying out the pilot programs under this section, the Secretary shall—

(1) employ the use of interdisciplinary care-management teams to provide the required array of services;

(2) determine the appropriate number of patients to be enrolled in each program and the criteria for enrollment; and

(3) ensure that funding for each program is based on the complex care category under the resource allocation system (known as the Veterans Equitable Resource Allocation system) established pursuant to section 429 of Public Law 104-204 (110 Stat. 2929).

(e) **DESIGN OF PILOT PROGRAMS.**—To the maximum extent feasible, the Secretary shall use the following three models in designing the three pilot programs under this section:

(1) Under one of the pilot programs, the Secretary shall provide services directly through facilities and personnel of the Department.

(2) Under one of the pilot programs, the Secretary shall provide services through a combination of—

(A) services provided under contract with appropriate public and private entities; and

(B) services provided through facilities and personnel of the Department.

(3) Under one of the pilot programs, the Secretary shall arrange for the provision of services through a combination of—

(A) services provided through cooperative arrangements with appropriate public and private entities; and

(B) services provided through facilities and personnel of the Department.

(f) IN-KIND ASSISTANCE.—In providing for the furnishing of services under a contract in carrying out the pilot program described in subsection (e)(2), the Secretary may, subject to reimbursement, provide in-kind assistance (through the services of Department employees and the sharing of other Department resources) to a facility furnishing care to veterans. Such reimbursement may be made by reduction in the charges to the Secretary under such contract.

(g) LIMITATION.—In providing for the furnishing of services in carrying out a pilot program described in subsection (e)(2) or (e)(3), the Secretary shall make payment for services only to the extent that payment for such services is not otherwise covered (notwithstanding any provision of title XVIII or XIX of the Social Security Act) by another government or nongovernment entity or program.

(h) DURATION OF PROGRAMS.—The authority of the Secretary to provide services under a pilot program under this section shall cease on the date that is three years after the date of the commencement of that pilot program.

Deadline.

(i) REPORT.—(1) Not later than nine months after the completion of all of the pilot programs under this section, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on those programs.

(2) The report shall include the following:

(A) A description of the implementation and operation of each such program.

(B) An analysis comparing use of institutional care and use of other services among enrollees in each of the pilot programs with the experience of comparable patients who are not enrolled in one of the pilot programs.

(C) An assessment of the satisfaction of participating veterans with each of those programs.

(D) An assessment of the health status of participating veterans in each of those programs and of the ability of those veterans to function independently.

(E) An analysis of the costs and benefits under each of those programs.

38 USC 1710B
note.

SEC. 103. PILOT PROGRAM RELATING TO ASSISTED LIVING.

(a) PROGRAM AUTHORITY.—The Secretary may carry out a pilot program for the purpose of determining the feasibility and practicability of enabling eligible veterans to secure needed assisted living services as an alternative to nursing home care.

(b) LOCATION OF PILOT PROGRAM.—The pilot program shall be carried out in a designated health care region of the Department selected by the Secretary for purposes of this section.

(c) SCOPE OF PROGRAM.—In carrying out the pilot program, the Secretary may enter into contracts with appropriate facilities for the provision for a period of up to six months of assisted

living services on behalf of eligible veterans in the region where the program is carried out.

(d) **ELIGIBLE VETERANS.**—A veteran is an eligible veteran for purposes of this section if the veteran—

(1) is eligible for placement assistance by the Secretary under section 1730(a) of title 38, United States Code;

(2) is unable to manage routine activities of daily living without supervision and assistance; and

(3) could reasonably be expected to receive ongoing services after the end of the contract period under another government program or through other means.

(e) **REPORT.**—(1) Not later than 90 days before the end of the pilot program under this section, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the program.

Deadline.

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

(A) A description of the implementation and operation of the program.

(B) An analysis comparing use of institutional care among participants in the program with the experience of comparable patients who are not enrolled in the program.

(C) A comparison of assisted living services provided by the Department through the pilot program with domiciliary care provided by the Department.

(D) The Secretary's recommendations, if any, regarding an extension of the program.

(f) **DURATION.**—The authority of the Secretary to provide services under the pilot program shall cease on the date that is three years after the date of the commencement of the pilot program.

(g) **DEFINITION.**—For purposes of this section, the term "assisted living services" means services in a facility that provides room and board and personal care for and supervision of residents as necessary for the health, safety, and welfare of residents.

(h) **STANDARDS.**—The Secretary may not enter into a contract with a facility under this section unless the facility meets the standards established in regulations prescribed under section 1730 of title 38, United States Code.

Subtitle B—Other Access to Care Matters

SEC. 111. REIMBURSEMENT FOR EMERGENCY TREATMENT IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES.

(a) **AUTHORITY TO PROVIDE REIMBURSEMENT.**—Chapter 17 is amended by inserting after section 1724 the following new section:

"§ 1725. Reimbursement for emergency treatment

"(a) **GENERAL AUTHORITY.**—(1) Subject to subsections (c) and (d), the Secretary may reimburse a veteran described in subsection (b) for the reasonable value of emergency treatment furnished the veteran in a non-Department facility.

"(2) In any case in which reimbursement is authorized under subsection (a)(1), the Secretary, in the Secretary's discretion, may, in lieu of reimbursing the veteran, make payment of the reasonable value of the furnished emergency treatment directly—

"(A) to a hospital or other health care provider that furnished the treatment; or

“(B) to the person or organization that paid for such treatment on behalf of the veteran.

“(b) ELIGIBILITY.—(1) A veteran referred to in subsection (a)(1) is an individual who is an active Department health-care participant who is personally liable for emergency treatment furnished the veteran in a non-Department facility.

“(2) A veteran is an active Department health-care participant if—

“(A) the veteran is enrolled in the health care system established under section 1705(a) of this title; and

“(B) the veteran received care under this chapter within the 24-month period preceding the furnishing of such emergency treatment.

“(3) A veteran is personally liable for emergency treatment furnished the veteran in a non-Department facility if the veteran—

“(A) is financially liable to the provider of emergency treatment for that treatment;

“(B) has no entitlement to care or services under a health-plan contract (determined, in the case of a health-plan contract as defined in subsection (f)(2)(B) or (f)(2)(C), without regard to any requirement or limitation relating to eligibility for care or services from any department or agency of the United States);

“(C) has no other contractual or legal recourse against a third party that would, in whole or in part, extinguish such liability to the provider; and

“(D) is not eligible for reimbursement for medical care or services under section 1728 of this title.

Regulations.

“(c) LIMITATIONS ON REIMBURSEMENT.—(1) The Secretary, in accordance with regulations prescribed by the Secretary, shall—

“(A) establish the maximum amount payable under subsection (a);

“(B) delineate the circumstances under which such payments may be made, to include such requirements on requesting reimbursement as the Secretary shall establish; and

“(C) provide that in no event may a payment under that subsection include any amount for which the veteran is not personally liable.

“(2) Subject to paragraph (1), the Secretary may provide reimbursement under this section only after the veteran or the provider of emergency treatment has exhausted without success all claims and remedies reasonably available to the veteran or provider against a third party for payment of such treatment.

“(3) Payment by the Secretary under this section on behalf of a veteran to a provider of emergency treatment shall, unless rejected and refunded by the provider within 30 days of receipt, extinguish any liability on the part of the veteran for that treatment. Neither the absence of a contract or agreement between the Secretary and the provider nor any provision of a contract, agreement, or assignment to the contrary shall operate to modify, limit, or negate the requirement in the preceding sentence.

Regulations.

“(d) INDEPENDENT RIGHT OF RECOVERY.—(1) In accordance with regulations prescribed by the Secretary, the United States shall have the independent right to recover any amount paid under this section when, and to the extent that, a third party subsequently makes a payment for the same emergency treatment.

"(2) Any amount paid by the United States to the veteran (or the veteran's personal representative, successor, dependents, or survivors) or to any other person or organization paying for such treatment shall constitute a lien in favor of the United States against any recovery the payee subsequently receives from a third party for the same treatment.

"(3) Any amount paid by the United States to the provider that furnished the veteran's emergency treatment shall constitute a lien against any subsequent amount the provider receives from a third party for the same emergency treatment for which the United States made payment.

"(4) The veteran (or the veteran's personal representative, successor, dependents, or survivors) shall ensure that the Secretary is promptly notified of any payment received from any third party for emergency treatment furnished to the veteran. The veteran (or the veteran's personal representative, successor, dependents, or survivors) shall immediately forward all documents relating to such payment, cooperate with the Secretary in the investigation of such payment, and assist the Secretary in enforcing the United States right to recover any payment made under subsection (c)(3).

"(e) WAIVER.—The Secretary, in the Secretary's discretion, may waive recovery of a payment made to a veteran under this section that is otherwise required by subsection (d)(1) when the Secretary determines that such waiver would be in the best interest of the United States, as defined by regulations prescribed by the Secretary.

Regulations.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'emergency treatment' means medical care or services furnished, in the judgment of the Secretary—

"(A) when Department or other Federal facilities are not feasibly available and an attempt to use them beforehand would not be reasonable;

"(B) when such care or services are rendered in a medical emergency of such nature that a prudent layperson reasonably expects that delay in seeking immediate medical attention would be hazardous to life or health; and

"(C) until such time as the veteran can be transferred safely to a Department facility or other Federal facility.

"(2) The term 'health-plan contract' includes any of the following:

"(A) An insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement under which health services for individuals are provided or the expenses of such services are paid.

"(B) An insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of that Act (42 U.S.C. 1395j).

"(C) A State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.).

"(D) A workers' compensation law or plan described in section 1729(a)(2)(A) of this title.

"(E) A law of a State or political subdivision described in section 1729(a)(2)(B) of this title.

"(3) The term 'third party' means any of the following:

"(A) A Federal entity.

"(B) A State or political subdivision of a State.

"(C) An employer or an employer's insurance carrier.

“(D) An automobile accident reparations insurance carrier.

“(E) A person or entity obligated to provide, or to pay the expenses of, health services under a health-plan contract.”.

(b) CONFORMING AMENDMENTS.—(1) Section 1729A(b) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph:

“(5) Section 1725 of this title.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1724 the following new item:

“1725. Reimbursement for emergency treatment.”.

38 USC 1725
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

38 USC 1725
note.

(d) IMPLEMENTATION REPORTS.—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Veterans Affairs budget for fiscal year 2002 and for fiscal year 2003 a report on the implementation of section 1725 of title 38, United States Code, as added by subsection (a). Each such report shall include information on the experience of the Department under that section and the costs incurred, and expected to be incurred, under that section.

SEC. 112. ELIGIBILITY FOR CARE OF COMBAT-INJURED VETERANS.

Chapter 17 is amended—

(1) in section 1710(a)(2)(D), by inserting “or who was awarded the Purple Heart” after “former prisoner of war”; and

(2) in section 1705(a)(3), by inserting “or who were awarded the Purple Heart” after “former prisoners of war”.

38 USC 8111
note.

SEC. 113. ACCESS TO CARE FOR TRICARE-ELIGIBLE MILITARY RETIREES.

(a) INTERAGENCY AGREEMENT.—(1) The Secretary of Defense shall enter into an agreement (characterized as a memorandum of understanding or otherwise) with the Secretary of Veterans Affairs with respect to the provision of medical care by the Secretary of Veterans Affairs to eligible military retirees in accordance with the provisions of subsection (c). That agreement shall include provisions for reimbursement of the Secretary of Veterans Affairs by the Secretary of Defense for medical care provided by the Secretary of Veterans Affairs to an eligible military retiree and may include such other provisions with respect to the terms and conditions of such care as may be agreed upon by the two Secretaries.

(2) Reimbursement under the agreement under paragraph (1) shall be in accordance with rates agreed upon by the Secretary of Defense and the Secretary of Veterans Affairs. Such reimbursement may be made by the Secretary of Defense or by the appropriate TRICARE Managed Care Support contractor, as determined in accordance with that agreement.

(3) In entering into the agreement under paragraph (1), particularly with respect to determination of the rates of reimbursement

under paragraph (2), the Secretary of Defense shall consult with TRICARE Managed Care Support contractors.

(4) The Secretary of Veterans Affairs may not enter into an agreement under paragraph (1) for the provision of care in accordance with the provisions of subsection (c) with respect to any geographic service area, or a part of any such area, of the Veterans Health Administration unless—

(A) in the judgment of that Secretary, the Department of Veterans Affairs will recover the costs of providing such care to eligible military retirees; and

(B) that Secretary has certified and documented, with respect to any geographic service area in which the Secretary proposes to provide care in accordance with the provisions of subsection (c), that such geographic service area, or designated part of any such area, has adequate capacity (consistent with the requirements in section 1705(b)(1) of title 38, United States Code, that care to enrollees shall be timely and acceptable in quality) to provide such care.

Certification.

(5) The agreement under paragraph (1) shall be entered into by the Secretaries not later than nine months after the date of the enactment of this Act. If the Secretaries are unable to reach agreement, they shall jointly report, by that date or within 30 days thereafter, to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and House of Representatives on the reasons for their inability to reach an agreement and their mutually agreed plan for removing any impediments to final agreement.

Deadlines.

Reports.

(b) DEPOSITING OF REIMBURSEMENTS.—Amounts received by the Secretary of Veterans Affairs under the agreement under subsection (a) shall be deposited in the Department of Veterans Affairs Health Services Improvement Fund established under section 1729B of title 38, United States Code, as added by section 202.

(c) COPAYMENT REQUIREMENT.—The provisions of subsections (f)(1) and (g)(1) of section 1710 of title 38, United States Code, shall not apply in the case of an eligible military retiree who is covered by the agreement under subsection (a).

(d) PHASED IMPLEMENTATION.—(1) The Secretary of Defense shall include in each TRICARE contract entered into after the date of the enactment of this Act provisions to implement the agreement under subsection (a).

Contracts.

(2) The provisions of the agreement under subsection (a)(2) and the provisions of subsection (c) shall apply to the furnishing of medical care by the Secretary of Veterans Affairs in any area of the United States only if that area is covered by a TRICARE contract that was entered into after the date of the enactment of this Act.

Applicability.

(e) ELIGIBLE MILITARY RETIREES.—For purposes of this section, an eligible military retiree is a member of the Army, Navy, Air Force, or Marine Corps who—

(1) has retired from active military, naval, or air service;

(2) is eligible for care under the TRICARE program established by the Secretary of Defense;

(3) has enrolled for care under section 1705 of title 38, United States Code; and

(4) is not described in paragraph (1) or (2) of section 1710(a) of such title.

SEC. 114. TREATMENT AND SERVICES FOR DRUG OR ALCOHOL DEPENDENCY.

(a) **AUTHORITY TO PROVIDE TREATMENT AND SERVICES FOR MEMBERS ON ACTIVE DUTY.**—Section 1720A(c) is amended in the first sentence of paragraph (1)—

(1) by striking “may not be transferred” and inserting “may be transferred”; and

(2) by striking “unless such transfer is during the last thirty days of such member’s enlistment or tour of duty”.

(b) **CONFORMING AMENDMENT.**—The first sentence of paragraph (2) of that section is amended by striking “during the last thirty days of such person’s enlistment period or tour of duty”.

SEC. 115. COUNSELING AND TREATMENT FOR VETERANS WHO HAVE EXPERIENCED SEXUAL TRAUMA.

(a) **EXTENSION OF PERIOD OF PROGRAM.**—Subsection (a) of section 1720D is amended—

(1) in paragraph (1), by striking “December 31, 2001” and inserting “December 31, 2004”; and

(2) in paragraph (3), by striking “December 31, 2001” and inserting “December 31, 2004”.

(b) **MANDATORY NATURE OF PROGRAM.**—(1) Subsection (a)(1) of such section is further amended by striking “may provide counseling to a veteran who the Secretary determines requires such counseling” and inserting “shall operate a program under which the Secretary provides counseling and appropriate care and services to veterans who the Secretary determines require such counseling and care and services”.

(2) Subsection (a) of such section is further amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) (as amended by subsection (a)(2)) as paragraph (2).

(c) **OUTREACH EFFORTS.**—Subsection (c) of such section is amended—

(1) by inserting “and treatment” in the first sentence and in paragraph (2) after “counseling”;

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

(3) by redesignating paragraph (2) as paragraph (3); and

(4) by inserting after paragraph (1) the following new paragraph (2):

“(2) shall ensure that information about the counseling and treatment available to veterans under this section—

“(A) is revised and updated as appropriate;

“(B) is made available and visibly posted at appropriate facilities of the Department; and

“(C) is made available through appropriate public information services; and”.

(d) **REPORT ON IMPLEMENTATION OF OUTREACH ACTIVITIES.**—Not later than six months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the Secretary’s implementation of paragraph (2) of section 1720D(c) of title 38, United States Code, as added by subsection (c). Such report shall include examples of the documents and other means of communication developed for compliance with that paragraph.

Deadline.

(e) **STUDY OF EXPANDING ELIGIBILITY FOR COUNSELING AND TREATMENT.**—(1) The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall conduct a study to determine—

38 USC 1720D
note.

(A) the extent to which former members of the reserve components of the Armed Forces experienced physical assault of a sexual nature or battery of a sexual nature while serving on active duty for training;

(B) the extent to which such former members have sought counseling from the Department of Veterans Affairs relating to those incidents; and

(C) the additional resources that, in the judgment of the Secretary, would be required to meet the projected need of those former members for such counseling.

(2) Not later than 16 months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study conducted under paragraph (1).

Deadline.
Reports.

(f) **OVERSIGHT OF OUTREACH ACTIVITIES.**—Not later than 14 months after the date of the enactment of this Act, the Secretary of Veterans Affairs and the Secretary of Defense shall submit to the appropriate congressional committees a joint report describing in detail the collaborative efforts of the Department of Veterans Affairs and the Department of Defense to ensure that members of the Armed Forces, upon separation from active military, naval, or air service, are provided appropriate and current information about programs of the Department of Veterans Affairs to provide counseling and treatment for sexual trauma that may have been experienced by those members while in the active military, naval, or air service, including information about eligibility requirements for, and procedures for applying for, such counseling and treatment. The report shall include proposed recommendations from both the Secretary of Veterans Affairs and the Secretary of Defense for the improvement of their collaborative efforts to provide such information.

Deadlines.
Reports.
38 USC 1720D
note.

(g) **REPORT ON IMPLEMENTATION OF SEXUAL TRAUMA TREATMENT PROGRAM.**—Not later than 14 months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the use made of the authority provided under section 1720D of title 38, United States Code, as amended by this section. The report shall include the following with respect to activities under that section since the enactment of this Act:

Deadline.

(1) The number of veterans who have received counseling under that section.

(2) The number of veterans who have been referred to non-Department mental health facilities and providers in connection with sexual trauma counseling and treatment.

SEC. 116. SPECIALIZED MENTAL HEALTH SERVICES.

38 USC 1712A
note.

(a) **IMPROVEMENT TO SPECIALIZED MENTAL HEALTH SERVICES.**—The Secretary, in furtherance of the responsibilities of the Secretary under section 1706(b) of title 38, United States Code, shall carry out a program to expand and improve the provision of specialized mental health services to veterans. The Secretary shall establish the program in consultation with the Committee on Care of Severely

Chronically Mentally Ill Veterans established pursuant to section 7321 of title 38, United States Code.

(b) **COVERED PROGRAMS.**—For purposes of this section, the term “specialized mental health services” includes programs relating to—

- (1) the treatment of post-traumatic stress disorder; and
- (2) substance use disorders.

(c) **FUNDING.**—(1) In carrying out the program described in subsection (a), the Secretary shall identify, from funds available to the Department for medical care, an amount of not less than \$15,000,000 to be available to carry out the program and to be allocated to facilities of the Department pursuant to subsection (d).

(2) In identifying available amounts pursuant to paragraph (1), the Secretary shall ensure that, after the allocation of those funds under subsection (d), the total expenditure for programs relating to (A) the treatment of post-traumatic stress disorder, and (B) substance use disorders is not less than \$15,000,000 in excess of the baseline amount.

(3) For purposes of paragraph (2), the baseline amount is the amount of the total expenditures on such programs for the most recent fiscal year for which final expenditure amounts are known, adjusted to reflect any subsequent increase in applicable costs to deliver such services in the Veterans Health Administration, as determined by the Committee on Care of Severely Chronically Mentally Ill Veterans.

(d) **ALLOCATION OF FUNDS TO DEPARTMENT FACILITIES.**—The Secretary shall allocate funds identified pursuant to subsection (c)(1) to individual medical facilities of the Department as the Secretary determines appropriate based upon proposals submitted by those facilities for the use of those funds for improvements to specialized mental health services.

(e) **REPORT.**—Not later than 12 months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the implementation of this section. The Secretary shall include in the report information on the allocation of funds to facilities of the Department under the program and a description of the improvements made with those funds to specialized mental health services for veterans.

Deadline.

TITLE II—MEDICAL PROGRAM ADMINISTRATION

SEC. 201. MEDICAL CARE COLLECTIONS.

(a) **LIMITED AUTHORITY TO SET COPAYMENTS.**—Section 1722A is amended—

- (1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

- (2) by inserting after subsection (a) the following new subsection (b):

“(b) The Secretary, pursuant to regulations which the Secretary shall prescribe, may—

- “(1) increase the copayment amount in effect under subsection (a); and

Regulations.

“(2) establish a maximum monthly and a maximum annual pharmaceutical copayment amount under subsection (a) for veterans who have multiple outpatient prescriptions.”; and

(3) in subsection (c), as redesignated by paragraph (1)—
(A) by striking “this section” and inserting “subsection (a)”; and

(B) by adding at the end the following new sentence:
“Amounts collected through use of the authority under subsection (b) shall be deposited in the Department of Veterans Affairs Health Services Improvement Fund.”.

(b) **OUTPATIENT TREATMENT.**—Section 1710(g) is amended—

(1) in paragraph (1), by striking “the amount determined under paragraph (2) of this subsection” and inserting “in the case of each outpatient visit the applicable amount or amounts established by the Secretary by regulation”; and

(2) in paragraph (2), by striking all after “for an amount” and inserting “which the Secretary shall establish by regulation.”.

SEC. 202. HEALTH SERVICES IMPROVEMENT FUND.

(a) **ESTABLISHMENT OF FUND.**—Chapter 17 is amended by inserting after section 1729A the following new section:

“§ 1729B. Health Services Improvement Fund

“(a) There is established in the Treasury of the United States a fund to be known as the Department of Veterans Affairs Health Services Improvement Fund.

“(b) Amounts received or collected after the date of the enactment of this section under any of the following provisions of law shall be deposited in the fund:

“(1) Section 1713A of this title.

“(2) Section 1722A(b) of this title.

“(3) Section 8165(a) of this title.

“(4) Section 113 of the Veterans Millennium Health Care and Benefits Act.

“(c) Amounts in the fund are hereby available, without fiscal year limitation, to the Secretary for the purposes stated in subparagraphs (A) and (B) of section 1729A(c)(1) of this title.

“(d) The Secretary shall allocate amounts in the fund in the same manner as applies under subsection (d) of section 1729A of this title with respect to amounts made available from the fund under that section.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1729A the following new item:

“1729B. Health Services Improvement Fund.”.

SEC. 203. ALLOCATION TO HEALTH CARE FACILITIES OF AMOUNTS MADE AVAILABLE FROM MEDICAL CARE COLLECTIONS FUND.

Section 1729A(d) is amended—

(1) by striking “(1)”;

(2) by striking “each designated health care region” and inserting “each Department health care facility”;

(3) by striking “each region” and inserting “each facility”;

(4) by striking “such region” both places it appears and inserting “such facility”; and

(5) by striking paragraph (2).

SEC. 204. AUTHORITY TO ACCEPT FUNDS FOR EDUCATION AND TRAINING.

(a) **ESTABLISHMENT OF NONPROFIT CORPORATIONS AT MEDICAL CENTERS.**—Section 7361(a) is amended—

(1) by inserting “and education” after “research”; and

(2) by adding at the end the following: “Such a corporation may be established to facilitate either research or education or both research and education.”

(b) **PURPOSE OF CORPORATIONS.**—Section 7362 is amended—

(1) in the first sentence—

(A) by inserting “(a)” before “Any corporation”; and

(B) by inserting “and education and training as described in sections 7302, 7471, 8154, and 1701(6)(B) of this title” after “of this title”;

(2) in the second sentence—

(A) by inserting “or education” after “research”; and

(B) by striking “that purpose” and inserting “these purposes”; and

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

“(b) For purposes of this section, the term ‘education and training’ means the following:

“(1) In the case of employees of the Veterans Health Administration, such term means work-related instruction or other learning experiences to—

“(A) improve performance of current duties;

“(B) assist employees in maintaining or gaining specialized proficiencies; and

“(C) expand understanding of advances and changes in patient care, technology, and health care administration.

Such term includes (in the case of such employees) education and training conducted as part of a residency or other program designed to prepare an individual for an occupation or profession.

“(2) In the case of veterans under the care of the Veterans Health Administration, such term means instruction or other learning experiences related to improving and maintaining the health of veterans to patients and to the families and guardians of patients.”

(c) **BOARD OF DIRECTORS.**—Section 7363(a) is amended—

(1) in subsection (a)(1), by striking all after “medical center, and” and inserting “as appropriate, the assistant chief of staff for research for the medical center and the assistant chief of staff for education for the medical center, or, in the case of a facility at which such positions do not exist, those officials who are responsible for carrying out the responsibilities of the medical center director, chief of staff, and, as appropriate, the assistant chief of staff for research and the assistant chief of staff for education; and”;

(2) in subsection (a)(2), by inserting “or education, as appropriate” after “research”; and

(3) in subsection (c), by inserting “or education” after “research”.

(d) **APPROVAL OF EXPENDITURES.**—Section 7364 is amended by adding at the end the following new subsection:

“(c)(1) A corporation established under this subchapter may not spend funds for an education activity unless the activity is approved in accordance with procedures prescribed by the Under Secretary for Health.

“(2) The Under Secretary for Health shall prescribe policies and procedures to guide the expenditure of funds by corporations under paragraph (1) consistent with the purpose of such corporations as flexible funding mechanisms.”

Regulations.

(e) ACCOUNTABILITY AND OVERSIGHT.—Section 7366(d) is amended—

(1) in paragraph (2)(B), by inserting “for research and the amount received from governmental entities for education” after “entities”;

(2) in paragraph (2)(C), by inserting “for research and the amount received from all other sources for education” after “sources”;

(3) in paragraph (2)(D), by striking “the” and inserting “a”;

(4) in paragraph (3)(A), by striking “and” and inserting “the amount expended for salary for education staff, and the amount expended”;

(5) in paragraph (3)(B), by inserting “and the amount expended for direct support of education” after “research”; and

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

“(4) The amount expended by each corporation during the year for travel conducted in conjunction with research and the amount expended for travel in conjunction with education.”

SEC. 205. EXTENSION OF CERTAIN AUTHORITIES.

(a) READJUSTMENT COUNSELING.—Section 1712A(a)(1)(B)(ii) is amended by striking “January 1, 2000” and inserting “January 1, 2004”.

(b) NEWSLETTER ON MEDICAL CARE FOR PERSIAN GULF VETERANS.—Section 105(b)(2) of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103-446; 108 Stat. 4659; 38 U.S.C. 1117 note) is amended by striking “December 31, 1999” and inserting “December 31, 2003”.

(c) EVALUATION OF HEALTH OF SPOUSES AND CHILDREN OF PERSIAN GULF VETERANS.—Section 107(b) of that Act is amended by striking “December 31, 1999” and inserting “December 31, 2003”.

38 USC 1117
note.

SEC. 206. REESTABLISHMENT OF COMMITTEE ON POST-TRAUMATIC STRESS DISORDER.

Section 110 of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) is amended—

(1) by striking “Chief Medical Director” each place it appears and inserting “Under Secretary for Health”;

(2) by striking “Veterans' Administration” each place it appears (other than in subsection (a)(1)) and inserting “Department”;

(3) by striking “Veterans' Administration” in subsection (a)(1) and inserting “Department of Veterans Affairs”;

(4) by striking “Department of Medicine and Surgery” each place it appears and inserting “Veterans Health Administration”;

(5) by striking “section 612A” in subsection (a)(2) and inserting “section 1712A”;

(6) by striking "Department" in the second sentence of subsection (b)(1) and inserting "Veterans Health Administration";

(7) by striking "Department of Veterans' Benefits" in subsection (b)(4)(E) and inserting "Veterans Benefits Administration";

(8) in subsection (e)(1), by striking "Not later than March 1, 1985, the Administrator" and inserting "Not later than March 1, 2000, the Secretary"; and

(9) in subsection (e)(2)—

(A) by striking "Not later than February 1, 1986" and inserting "Not later than February 1, 2001";

(B) by striking "Administrator" and inserting "Secretary"; and

(C) by striking "before the submission of such report" and inserting "since the enactment of the Veterans Millennium Health Care and Benefits Act".

SEC. 207. STATE HOME GRANT PROGRAM.

(a) GENERAL REGULATIONS.—Section 8134 is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by striking the matter in subsection (a) preceding paragraph (2) and inserting the following:

"(a)(1) The Secretary shall prescribe regulations for the purposes of this subchapter.

"(2) In those regulations, the Secretary shall prescribe for each State the number of nursing home and domiciliary beds for which assistance under this subchapter may be furnished. Such regulations shall be based on projected demand for such care 10 years after the date of the enactment of the Veterans Millennium Health Care and Benefits Act by veterans who at such time are 65 years of age or older and who reside in that State. In determining such projected demand, the Secretary shall take into account travel distances for veterans and their families.

"(3)(A) In those regulations, the Secretary shall establish criteria under which the Secretary shall determine, with respect to an application for assistance under this subchapter for a project described in subparagraph (B) which is from a State that has a need for additional beds as determined under subsections (a)(2) and (d)(1), whether the need for such beds is most aptly characterized as great, significant, or limited. Such criteria shall take into account the availability of beds already operated by the Secretary and other providers which appropriately serve the needs which the State proposes to meet with its application.

"(B) This paragraph applies to a project for the construction or acquisition of a new State home facility, a project to increase the number of beds available at a State home facility, and a project to replace beds at a State home facility.

"(4) The Secretary shall review and, as necessary, revise regulations prescribed under paragraphs (2) and (3) not less often than every four years.

"(b) The Secretary shall prescribe the following by regulation:"

(3) by redesignating paragraphs (2) and (3) of subsection (b), as designated by paragraph (2), as paragraphs (1) and (2);

Applicability.

(4) in subsection (c), as redesignated by paragraph (1), by striking "subsection (a)(3)" and inserting "subsection (b)(2)"; and

(5) by adding at the end the following new subsection:
"(d)(1) In prescribing regulations to carry out this subchapter, the Secretary shall provide that in the case of a State that seeks assistance under this subchapter for a project described in subsection (a)(3)(B), the determination of the unmet need for beds for State homes in that State shall be reduced by the number of beds in all previous applications submitted by that State under this subchapter, including beds which have not been recognized by the Secretary under section 1741 of this title.

"(2)(A) Financial assistance under this subchapter for a renovation project may only be provided for a project for which the total cost of construction is in excess of \$400,000 (as adjusted from time-to-time in such regulations to reflect changes in costs of construction).

"(B) For purposes of this paragraph, a renovation project is a project to remodel or alter existing buildings for which financial assistance under this subchapter may be provided and does not include maintenance and repair work which is the responsibility of the State."

(b) APPLICATIONS WITH RESPECT TO PROJECTS.—Section 8135 is amended—

(1) in subsection (a)—

(A) by striking "set forth—" in the matter preceding paragraph (1) and inserting "set forth the following";

(B) by capitalizing the first letter of the first word in each of paragraphs (1) through (9);

(C) by striking the comma at the end of each of paragraphs (1) through (7) and inserting a period; and

(D) by striking ", and" at the end of paragraph (8) and inserting a period;

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

(3) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Any State seeking to receive assistance under this subchapter for a project that would involve construction or acquisition of either nursing home or domiciliary facilities shall include with its application under subsection (a) the following:

"(A) Documentation (i) that the site for the project is in reasonable proximity to a sufficient concentration and population of veterans who are 65 years of age and older, and (ii) that there is a reasonable basis to conclude that the facilities when complete will be fully occupied.

"(B) A financial plan for the first three years of operation of such facilities.

"(C) A five-year capital plan for the State home program for that State.

"(2) Failure to provide adequate documentation under paragraph (1)(A) or to provide an adequate financial plan under paragraph (1)(B) shall be a basis for disapproving the application.";

and

(4) in subsection (c), as redesignated by paragraph (2)—

(A) in paragraph (1), by striking "for a grant under subsection (a) of this section" in the matter preceding

subparagraph (A) and inserting “under subsection (a) for financial assistance under this subchapter”;

(B) in paragraph (2)—

(i) by striking “the construction or acquisition of” in subparagraph (A); and

(ii) by striking subparagraphs (B), (C), and (D) and inserting the following:

“(B) An application from a State for a project at an existing facility to remedy a condition or conditions that have been cited by an accrediting institution, by the Secretary, or by a local licensing or approving body of the State as being threatening to the lives or safety of the patients in the facility.

“(C) An application from a State that has not previously applied for award of a grant under this subchapter for construction or acquisition of a State nursing home.

“(D) An application for construction or acquisition of a nursing home or domiciliary from a State that the Secretary determines, in accordance with regulations under this subchapter, has a great need for the beds to be established at such home or facility.

“(E) An application from a State for renovations to a State home facility other than renovations described in subparagraph (B).

“(F) An application for construction or acquisition of a nursing home or domiciliary from a State that the Secretary determines, in accordance with regulations under this subchapter, has a significant need for the beds to be established at such home or facility.

“(G) An application that meets other criteria as the Secretary determines appropriate and has established in regulations.

“(H) An application for construction or acquisition of a nursing home or domiciliary from a State that the Secretary determines, in accordance with regulations under this subchapter, has a limited need for the beds to be established at such home or facility.”; and

(C) in paragraph (3), by striking subparagraph (A) and inserting the following:

“(A) may not accord any priority to a project for the construction or acquisition of a hospital; and”.

(c) TRANSITION.—(1) The provisions of sections 8134 and 8135 of title 38, United States Code, as in effect on November 10, 1999, shall continue in effect after that date with respect to applications described in section 8135(b)(2)(A) of such title, as in effect on that date, that are identified in paragraph (2) (and to projects and grants pursuant to those applications). The Secretary shall accord priority among those applications in the order listed in paragraph (2).

(2) Applications covered by paragraph (1) are the following:

(A) Any application for a fiscal year 1999 priority one project.

(B) Any application for a fiscal year 2000 priority one project that was submitted by a State that (i) did not receive grant funds from amounts appropriated for fiscal year 1999 under the State home grant program, and (ii) does not have any fiscal year 1999 priority one projects.

(3) For purposes of this subsection—

(A) the term “fiscal year 1999 priority one project” means a project on the list of approved projects established by the Secretary on October 29, 1998, under section 8135(b)(4) of title 38, United States Code, as in effect on that date that (pursuant to section 8135(b)(2)(A) of that title) is in the grouping of projects on that list designated as Priority Group 1;

(B) the term “fiscal year 2000 priority one project” means a project on the list of approved projects established by the Secretary on November 3, 1999, under section 8135(b)(4) of title 38, United States Code, as in effect on that date that (pursuant to section 8135(b)(2)(A) of that title) is in the grouping of projects on that list designated as Priority Group 1; and

(C) the term “State home grant program” means the grant program under subchapter III of chapter 81 of title 38, United States Code.

(d) EFFECTIVE DATE FOR INITIAL REGULATIONS.—The Secretary shall prescribe the initial regulations under subsection (a) of section 8134 of title 38, United States Code, as added by subsection (a), not later than April 30, 2000.

38 USC 8134
note.

SEC. 208. EXPANSION OF ENHANCED-USE LEASE AUTHORITY.

(a) AUTHORITY.—Section 8162(a)(2) is amended—

(1) by striking “only if the Secretary” and inserting “only if—

“(A) the Secretary”;

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and realigning those clauses so as to be four ems from the left margin;

(3) by striking the period at the end of clause (iii), as so redesignated, and inserting “; or”; and

(4) by adding at the end the following:

“(B) the Secretary determines that the implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease to the provision of medical care and services would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located.”.

(b) TERM OF ENHANCED-USE LEASE.—Section 8162(b) is amended—

(1) in paragraph (2), by striking “may not exceed—” and all that follows and inserting “may not exceed 75 years.”; and

(2) by striking paragraph (4) and inserting the following:

“(4) The terms of an enhanced-use lease may provide for the Secretary to—

“(A) obtain facilities, space, or services on the leased property; and

“(B) use minor construction funds for capital contribution payments.”.

(c) DESIGNATION OF PROPERTY PROPOSED TO BE LEASED.—

(1) Subsection (b) of section 8163 is amended—

(A) by striking “include—” and inserting “include the following.”;

(B) by capitalizing the first letter of the first word of each of paragraphs (1), (2), (3), (4), and (5);

(C) by striking the semicolon at the end of paragraphs (1), (2), and (3) and inserting a period; and

(D) by striking subparagraphs (A), (B), and (C) of paragraph (4) and inserting the following:

“(A) would—

“(i) contribute in a cost-effective manner to the mission of the Department;

“(ii) not be inconsistent with the mission of the Department;

“(iii) not adversely affect the mission of the Department; and

“(iv) affect services to veterans; or

“(B) would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located.”.

(2) Subparagraph (E) of subsection (c)(1) of that section is amended by striking clauses (i), (ii), and (iii) and inserting the following:

“(i) would—

“(I) contribute in a cost-effective manner to the mission of the Department;

“(II) not be inconsistent with the mission of the Department;

“(III) not adversely affect the mission of the Department; and

“(IV) affect services to veterans; or

“(ii) would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located.”.

(d) USE OF PROCEEDS.—Section 8165(a) is amended by striking paragraph (1) and inserting the following:

“(a)(1) Funds received by the Department under an enhanced-use lease and remaining after any deduction from those funds under subsection (b) shall be deposited in the Department of Veterans Affairs Health Services Improvement Fund established under section 1729B of this title.”.

(e) EXTENSION OF AUTHORITY.—Section 8169 is amended by striking “December 31, 2001” and inserting “December 31, 2011”.

(f) TRAINING AND OUTREACH REGARDING AUTHORITY.—The Secretary shall take appropriate actions to provide training and outreach to personnel at Department medical centers regarding the enhanced-use lease authority under subchapter V of chapter 81 of title 38, United States Code. The training and outreach shall address methods of approaching potential lessees in the medical or commercial sectors regarding the possibility of entering into leases under that authority and other appropriate matters.

(g) INDEPENDENT ANALYSIS OF OPPORTUNITIES FOR USE OF AUTHORITY.—(1) The Secretary shall take appropriate actions to secure from an appropriate entity (or entities) independent of the Department an analysis (or analyses) of opportunities for the use of the enhanced-use lease authority under subchapter V of chapter 81 of title 38, United States Code.

(2) An analysis under paragraph (1) shall include—

(A) a survey of facilities of the Department for purposes of identifying Department property that presents an opportunity for lease under the enhanced-use lease authority;

(B) an assessment of the feasibility of entering into enhanced-use leases under that authority in the case of any

38 USC 8161
note.

38 USC 8161
note.

property identified under subparagraph (A) as presenting an opportunity for such lease; and

(C) an assessment of the resources required at the Department facilities concerned, and at the Department Central Office, in order to facilitate the entering into of enhanced-use leases in the case of property so identified.

(3) If as a result of a survey under paragraph (2)(A) an entity carrying out an analysis under this subsection determines that a particular Department property presents no opportunities for lease under the enhanced-use lease authority, the analysis shall include the entity's explanation of that determination.

(4) If as a result of such a survey an entity carrying out an analysis under this subsection determines that certain Department property presents an opportunity for lease under the enhanced-use lease authority, the analysis shall include a single integrated business plan, developed by the entity, that addresses the strategy and resources necessary to implement the plan for all property determined to present an opportunity for such lease.

SEC. 209. INELIGIBILITY FOR EMPLOYMENT BY VETERANS HEALTH ADMINISTRATION OF HEALTH CARE PROFESSIONALS WHO HAVE LOST LICENSE TO PRACTICE IN ONE JURISDICTION WHILE STILL LICENSED IN ANOTHER JURISDICTION.

Section 7402 is amended by adding at the end the following new subsection:

"(f) A person may not be employed in a position under subsection (b) (other than under paragraph (4) of that subsection) if—

"(1) the person is or has been licensed, registered, or certified (as applicable to such position) in more than one State; and

"(2) either—

"(A) any of those States has terminated such license, registration, or certification for cause; or

"(B) the person has voluntarily relinquished such license, registration, or certification in any of those States after being notified in writing by that State of potential termination for cause."

SEC. 210. REPORT ON COORDINATION OF PROCUREMENT OF PHARMACEUTICALS AND MEDICAL SUPPLIES BY THE DEPARTMENT OF VETERANS AFFAIRS AND THE DEPARTMENT OF DEFENSE.

(a) **REQUIREMENT.**—Not later than July 31, 2000, the Secretary of Veterans Affairs and the Secretary of Defense shall jointly submit to the Committees on Veterans' Affairs and Armed Services of the Senate and the Committees on Veterans' Affairs and Armed Services of the House of Representatives a report on the cooperation between the Department of Veterans Affairs and the Department of Defense in the procurement of pharmaceuticals and medical supplies.

Deadline.

(b) **REPORT ELEMENTS.**—The report under subsection (a) shall include the following:

(1) A description of the current cooperation between the Department of Veterans Affairs and the Department of Defense in the procurement of pharmaceuticals and medical supplies.

(2) An assessment of the means by which cooperation between the departments in such procurement could be enhanced or improved.

(3) A description of any existing memoranda of agreement between the Department of Veterans Affairs and the Department of Defense that provide for the cooperation referred to in subsection (a).

(4) A description of the effects, if any, such agreements will have on current staffing levels at the Defense Supply Center in Philadelphia, Pennsylvania, and the Department of Veterans Affairs National Acquisition Center in Hines, Illinois.

(5) A description of the effects, if any, of such cooperation on military readiness.

(6) A comprehensive assessment of cost savings realized and projected over the five fiscal year period beginning in fiscal year 1999 for the Department of Veterans Affairs and the Department of Defense as a result of such cooperation, and the overall savings to the Treasury of the United States as a result of such cooperation.

(7) A list of the types of medical supplies and pharmaceuticals for which cooperative agreements would not be appropriate and the reason or reasons therefor.

(8) An assessment of the extent to which cooperative agreements could be expanded to include medical equipment, major systems, and durable goods used in the delivery of health care by the Department of Veterans Affairs and the Department of Defense.

(9) A description of the effects such agreements might have on distribution of items purchased cooperatively by the Department of Veterans Affairs and the Department of Defense, particularly outside the continental United States.

(10) An assessment of the potential to establish common pharmaceutical formularies between the Department of Veterans Affairs and the Department of Defense.

(11) An explanation of the current Uniform Product Number (UPN) requirements of each Department and of any planned standardization of such requirements between the Departments for medical equipment and durable goods manufacturers.

SEC. 211. REIMBURSEMENT OF MEDICAL EXPENSES OF VETERANS LOCATED IN ALASKA.

(a) **PRESERVATION OF CURRENT REIMBURSEMENT RATES.**—Notwithstanding any other provision of law, the Secretary shall, for purposes of reimbursing veterans in Alaska for medical expenses under section 1728 of title 38, United States Code, during the one-year period beginning on the date of the enactment of this Act, use the fee-for-service payment schedule in effect for such purposes on July 31, 1999, rather than the Participating Physician Fee Schedule under the Medicare program.

(b) **REPORT.**—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs and the Secretary of Health and Human Services shall jointly submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report and recommendation on the use of the Participating Physician Fee Schedule under the Medicare program as a means of calculating reimbursement rates for medical

Deadline.

expenses of veterans located in Alaska under section 1728 of title 38, United States Code.

(2) The report shall—

(A) assess the differences between health care costs in Alaska and health care costs in the continental United States;

(B) describe any differences between the costs of providing health care in Alaska and the reimbursement rates for the provision of health care under the Participating Physician Fee Schedule; and

(C) assess the effects on health care for veterans in Alaska of implementing the Participating Physician Fee Schedule as a means of calculating reimbursement rates for medical expenses of veterans located in Alaska under section 1728 of title 38, United States Code.

TITLE III—MISCELLANEOUS MEDICAL PROVISIONS

SEC. 301. REVIEW OF PROPOSED CHANGES TO OPERATION OF MEDICAL FACILITIES.

Section 8110 is amended by adding at the end the following new subsections:

“(d) The Secretary may not in any fiscal year close more than 50 percent of the beds within a bed section (of 20 or more beds) of a Department medical center unless the Secretary first submits to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report providing a justification for the closure. No action to carry out such closure may be taken after the submission of such report until the end of the 21-day period beginning on the date of the submission of the report.

Reports.

“(e) The Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives, not later than January 20 of each year, a report documenting by network for the preceding fiscal year the following:

Deadline.
Reports.

“(1) The number of medical service and surgical service beds, respectively, that were closed during that fiscal year and, for each such closure, a description of the changes in delivery of services that allowed such closure to occur.

“(2) The number of nursing home beds that were the subject of a mission change during that fiscal year and the nature of each such mission change.

“(f) For purposes of this section:

“(1) The term ‘closure’, with respect to beds in a medical center, means ceasing to provide staffing for, and to operate, those beds. Such term includes converting the provision of such bed care from care in a Department facility to care under contract arrangements.

“(2) The term ‘bed section’, with respect to a medical center, means psychiatric beds (including beds for treatment of substance abuse and post-traumatic stress disorder), intermediate, neurology, and rehabilitation medicine beds, extended care (other than nursing home) beds, and domiciliary beds.

“(3) The term ‘justification’, with respect to closure of beds, means a written report that includes the following:

“(A) An explanation of the reasons for the determination that the closure is appropriate and advisable.

“(B) A description of the changes in the functions to be carried out and the means by which such care and services would continue to be provided to eligible veterans.

“(C) A description of the anticipated effects of the closure on veterans and on their access to care.”.

SEC. 302. PATIENT SERVICES AT DEPARTMENT FACILITIES.

Section 7803 is amended—

(1) in subsection (a)—

(A) by striking “(a)” before “The canteens”; and

(B) by striking “in this subsection;” and all that follows through “the premises” and inserting “in this section”; and

(2) by striking subsection (b).

38 USC 1710
note.
Deadline.

SEC. 303. CHIROPRACTIC TREATMENT.

(a) **ESTABLISHMENT OF PROGRAM.**—Not later than 120 days after the date of the enactment of this Act, the Under Secretary for Health of the Department of Veterans Affairs, after consultation with chiropractors, shall establish a policy for the Veterans Health Administration regarding the role of chiropractic treatment in the care of veterans under chapter 17 of title 38, United States Code.

(b) **DEFINITIONS.**—For purposes of this section:

(1) The term “chiropractic treatment” means the manual manipulation of the spine performed by a chiropractor for the treatment of such musculo-skeletal conditions as the Secretary considers appropriate.

(2) The term “chiropractor” means an individual who—

(A) is licensed to practice chiropractic in the State in which the individual performs chiropractic services; and

(B) holds the degree of doctor of chiropractic from a chiropractic college accredited by the Council on Chiropractic Education.

SEC. 304. DESIGNATION OF HOSPITAL BED REPLACEMENT BUILDING AT IOANNIS A. LOUGARIS DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, RENO, NEVADA.

The hospital bed replacement building under construction at the Ioannis A. Lougaris Department of Veterans Affairs Medical Center in Reno, Nevada, is hereby designated as the “Jack Streeter Building”. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Jack Streeter Building.

TITLE IV—CONSTRUCTION AND FACILITIES MATTERS

SEC. 401. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Construction of a long-term care facility at the Department of Veterans Affairs Medical Center, Lebanon, Pennsylvania, in an amount not to exceed \$14,500,000.

(2) Renovations and environmental improvements at the Department of Veterans Affairs Medical Center, Fargo, North Dakota, in an amount not to exceed \$12,000,000.

(3) Construction of a surgical suite and post-anesthesia care unit at the Department of Veterans Affairs Medical Center, Kansas City, Missouri, in an amount not to exceed \$13,000,000.

(4) Renovations and environmental improvements at the Department of Veterans Affairs Medical Center, Atlanta, Georgia, in an amount not to exceed \$12,400,000.

(5) Demolition of buildings at the Dwight D. Eisenhower Department of Veterans Affairs Medical Center, Leavenworth, Kansas, in an amount not to exceed \$5,600,000.

(6) Renovation to provide a domiciliary at Orlando, Florida, in a total amount not to exceed \$2,400,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2000 that remain available for obligation.

SEC. 402. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) Lease of an outpatient clinic, Lubbock, Texas, in an amount not to exceed \$1,112,000.

(2) Lease of a research building, San Diego, California, in an amount not to exceed \$1,066,500.

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2000 and for fiscal year 2001—

(1) for the Construction, Major Projects, account \$57,500,000 for the projects authorized in paragraphs (1) through (5) of section 401; and

(2) for the Medical Care account, \$2,178,500 for the leases authorized in section 402.

(b) **LIMITATION.**—The projects authorized in paragraphs (1) through (5) of section 401 may only be carried out using—

(1) funds appropriated for fiscal year 2000 or fiscal year 2001 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2000 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2000 for a category of activity not specific to a project.

TITLE V—BENEFITS AND EMPLOYMENT MATTERS

Subtitle A—Compensation and DIC

SEC. 501. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF FORMER PRISONERS OF WAR.

John William
Rolen Act.

(a) **SHORT TITLE.**—This section may be cited as the “John William Rolen Act”.

38 USC 101 note.

(b) **ELIGIBILITY.**—Section 1318(b) is amended—

(1) by striking “that either—” in the matter preceding paragraph (1) and inserting “rated totally disabling if—”;

(2) in paragraph (1)—

(A) by inserting “the disability” after “(1)”; and

(B) by striking “or” after “death,”;

(3) in paragraph (2)—

(A) by striking “if so rated for a lesser period, was so rated continuously” and inserting “the disability was continuously rated totally disabling”; and

(B) by striking the period at the end and inserting “; or”; and

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

“(3) the veteran was a former prisoner of war who died after September 30, 1999, and the disability was continuously rated totally disabling for a period of not later than one year immediately preceding death.”.

SEC. 502. REINSTATEMENT OF CERTAIN BENEFITS FOR REMARRIED SURVIVING SPOUSES OF VETERANS UPON TERMINATION OF THEIR REMARRIAGE.

(a) **RESTORATION OF PRIOR ELIGIBILITY.**—Section 103(d) is amended—

(1) by inserting “(1)” after “(d)”; and

(2) by adding at the end the following:

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

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

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

“(A) the month of the termination of such remarriage, in the case of a surviving spouse described in paragraph (2); or

“(B) the month of the cessation described in paragraph (3), in the case of a surviving spouse described in that paragraph.

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

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

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

“(C) Chapter 35, relating to educational assistance.

“(D) Chapter 37, relating to housing loans.”.

(b) **CONFORMING AMENDMENT.**—Section 1311 is amended by striking subsection (e).

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect on the first day of the first month beginning after the month in which this Act is enacted.

(d) **LIMITATION.**—No payment may be made to a person by reason of paragraphs (2) and (3) of section 103(d) of title 38, United States Code, as added by subsection (a), for any period before the effective date specified in subsection (c).

38 USC 103 note.

38 USC 103 note.

SEC. 503. PRESUMPTION THAT BRONCHIOLO-ALVEOLAR CARCINOMA IS SERVICE-CONNECTED.

Section 1112(c)(2) is amended by adding at the end the following new subparagraph:

“(P) Bronchiolo-alveolar carcinoma.”

Subtitle B—Employment

SEC. 511. CLARIFICATION OF VETERANS' CIVIL SERVICE EMPLOYMENT OPPORTUNITIES.

(a) **COORDINATION OF AMENDMENTS.**—If the Federal Reserve Board Retirement Portability Act is enacted before this Act, the amendments made by subsection (b) shall be made and the amendments made by subsection (c) shall not be made. Otherwise, the amendments made by subsection (c) shall be made and the amendments made by subsection (b) and the amendments made by section 204 of the Federal Reserve Board Retirement Portability Act shall not be made.

(b) **CLARIFICATION OF CIVIL SERVICE EMPLOYMENT OPPORTUNITIES.**—Subject to subsection (a), section 3304(f) of title 5, United States Code, as amended by section 204 of the Federal Reserve Board Retirement Portability Act, is amended—

(1) in paragraph (2), as added by such section, by striking “shall acquire competitive status and”; and

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

“(5) The Office of Personnel Management shall prescribe regulations necessary for the administration of this subsection. The regulations shall ensure that an individual who has completed an initial tour of active duty is not excluded from the application of this subsection because of having been released from such tour of duty shortly before completing 3 years of active service, having been honorably released from such duty.”

Regulations.

(c) **CLARIFICATION OF CIVIL SERVICE EMPLOYMENT OPPORTUNITIES.**—Subject to subsection (a), section 3304(f) of title 5, United States Code, is amended—

(1) by striking paragraph (4);

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

(3) by inserting after paragraph (1) the following new paragraph (2):

“(2) If selected, a preference eligible or veteran described in paragraph (1) shall receive a career or career-conditional appointment, as appropriate.”; and

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

“(5) The Office of Personnel Management shall prescribe regulations necessary for the administration of this subsection. The regulations shall ensure that an individual who has completed an initial tour of active duty is not excluded from the application of this subsection because of having been released from such tour of duty shortly before completing 3 years of active service, having been honorably released from such duty.”

Regulations.

(d) **EFFECTIVE DATE.**—(1) If pursuant to subsection (a) the amendments specified in subsection (b) are made, those amendments shall apply as if included in section 204 of the Federal Reserve Board Retirement Portability Act.

Applicability.

5 USC 3304 note.

(2) If pursuant to subsection (a) the amendments specified in subsection (c) are made, those amendments shall take effect as of October 31, 1998, as if included in subsection (f) of section 3304 of title 5, United States Code, as enacted by section 2 of the Veterans Employment Opportunities Act of 1998 (Public Law 105-339; 112 Stat. 3182).

TITLE VI—MEMORIAL AFFAIRS MATTERS

Subtitle A—American Battle Monuments Commission

SEC. 601. CODIFICATION AND EXPANSION OF AUTHORITY FOR WORLD WAR II MEMORIAL.

(a) CODIFICATION OF EXISTING AUTHORITY; EXPANSION OF AUTHORITY.—(1) Chapter 21 of title 36, United States Code, is amended by adding at the end the following new section:

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

“(a) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS.—(1) Consistent with its authority under section 2103(e) of this title, the American Battle Monuments Commission shall solicit and accept contributions for the World War II memorial.

“(2) In this section, the term ‘World War II memorial’ means the memorial authorized by Public Law 103-32 (40 U.S.C. 1003 note) to be established by the Commission on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war.

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

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

“(B) Obligations obtained under paragraph (3).

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

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

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

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

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

as determined by the Chairman, has a maturity suitable for the fund.

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

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

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

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

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

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

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

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

“(e) TREATMENT OF BORROWING AUTHORITY.—In determining whether the Commission has sufficient funds to complete construction of the World War II memorial, as required by section 8 of the Commemorative Works Act (40 U.S.C. 1008), the Secretary of the Interior shall consider the funds that the Commission may borrow from the Treasury under subsection (d) as funds available

to complete construction of the memorial, whether or not the Commission has actually exercised the authority to borrow such funds.

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

“(2) A person providing voluntary services under this subsection shall be considered to be a Federal employee for purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and chapter 171 of title 28, relating to tort claims. A volunteer who is not otherwise employed by the United States shall not be considered to be a Federal employee for any other purpose by reason of the provision of such voluntary service, except that any volunteer given responsibility for the handling of funds or the carrying out of a Federal function is subject to the conflict of interest laws contained in chapter 11 of title 18 and the administrative standards of conduct contained in part 2635 of title 5 of the Code of Federal Regulations.

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

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

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

Expiration date.

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

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2113. World War II memorial in the District of Columbia.”

(b) CONFORMING AMENDMENTS.—Public Law 103-32 (40 U.S.C. 1003 note) is amended by striking sections 3, 4, and 5.

36 USC 2113
note.

(c) EFFECT OF REPEAL OF CURRENT MEMORIAL FUND.—Upon the enactment of this Act, the Secretary of the Treasury shall transfer amounts in the fund created by section 4(a) of Public Law 103-32 (40 U.S.C. 1003 note) to the fund created by section 2113(b) of title 36, United States Code, as added by subsection (a).

SEC. 602. GENERAL AUTHORITY TO SOLICIT AND RECEIVE CONTRIBUTIONS.

Subsection (e) of section 2103 of title 36, United States Code, is amended to read as follows:

“(e) SOLICITATION AND RECEIPT OF CONTRIBUTIONS.—(1) The Commission may solicit and receive funds and in-kind donations and gifts from any State, municipal, or private source to carry

out the purposes of this chapter. The Commission shall deposit such funds in a separate account in the Treasury. Funds from that account shall be disbursed upon vouchers approved by the Chairman of the Commission.

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

Guidelines.

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

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

SEC. 603. INTELLECTUAL PROPERTY AND RELATED ITEMS.

(a) IN GENERAL.—Chapter 21 of title 36, United States Code, as amended by section 601(a)(1), is further amended by adding at the end the following new section:

“§ 2114. Intellectual property and related items

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

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

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

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

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

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

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

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

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

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 601(a)(2), is further amended by adding at the end the following new item:

“2114. Intellectual property and related items.”.

SEC. 604. TECHNICAL AMENDMENTS.

Chapter 21 of title 36, United States Code, is amended as follows:

(1) Section 2101(b) is amended—

(A) by striking “title 37, United States Code,” in paragraph (2) and inserting “title 37”; and

(B) by striking “title 5, United States Code,” in paragraph (3) and inserting “title 5”.

(2) Section 2102(a)(1) is amended, by striking “title 5, United States Code” and inserting “title 5”.

(3) Section 2103 is amended—

(A) by striking “title 31, United States Code” in subsection (h)(2)(A)(i) and inserting “title 31”; and

(B) by striking “title 44, United States Code” in subsection (i) and inserting “title 44”; and

(C) by striking “chairman” each place it appears and inserting “Chairman”.

Subtitle B—National Cemeteries

38 USC 2400
note.

SEC. 611. ESTABLISHMENT OF ADDITIONAL NATIONAL CEMETERIES.

(a) **ESTABLISHMENT.**—The Secretary shall establish, in accordance with chapter 24 of title 38, United States Code, a national cemetery in each of the six areas in the United States that the Secretary determines to be most in need of such a cemetery to serve the needs of veterans and their families.

(b) **OBLIGATION OF FUNDS IN FISCAL YEAR 2000.**—The Secretary shall obligate, from the advance planning fund in the Construction, Major Projects account appropriated to the Department for fiscal year 2000, such amounts for costs that the Secretary estimates are required for the planning and commencement of the establishment of national cemeteries under this section.

Deadlines.

(c) **REPORTS.**—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the establishment of the national cemeteries under subsection (a). The report shall set forth the following:

(A) The six areas of the United States determined by the Secretary to be most in need of the establishment of a new national cemetery.

(B) A schedule for such establishment.

(C) An estimate of the costs associated with such establishment.

(D) The amount obligated from the advance planning fund under subsection (b).

(2) Not later than one year after the date on which the report described in paragraph (1) is submitted, and annually thereafter until the establishment of the national cemeteries under subsection (a) is complete, the Secretary shall submit to Congress a report that updates the information included in the report described in paragraph (1).

38 USC 2404
note.

SEC. 612. USE OF FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY, NEW MEXICO.

Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary may provide for flat grave markers at the Santa Fe National Cemetery, New Mexico.

SEC. 613. INDEPENDENT STUDY ON IMPROVEMENTS TO VETERANS' CEMETERIES.38 USC 2404
note.

(a) **STUDY.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall enter into a contract with one or more qualified organizations to conduct a study of national cemeteries described in subsection (b). For purposes of this section, an entity of Federal, State, or local government is not a qualified organization.

Deadline.
Contracts.

(b) **MATTERS STUDIED.**—(1) The study conducted pursuant to the contract entered into under subsection (a) shall include an assessment of each of the following:

(A) The one-time repairs required at each national cemetery under the jurisdiction of the National Cemetery Administration of the Department of Veterans Affairs to ensure a dignified and respectful setting appropriate to such cemetery, taking into account the variety of age, climate, and burial options at individual national cemeteries.

(B) The feasibility of making standards of appearance of active national cemeteries, and the feasibility of making standards of appearance of closed national cemeteries, commensurate with standards of appearance of the finest cemeteries in the world.

(C) The number of additional national cemeteries that will be required for the interment and memorialization in such cemeteries of individuals qualified under chapter 24 of title 38, United States Code, who die after 2005.

(D) The advantages and disadvantages of the use by the National Cemetery Administration of flat grave markers and upright grave markers.

(E) The current condition of flat grave marker sections at each of the national cemeteries.

(2) In presenting the assessment of additional national cemeteries required under paragraph (1)(C), the report shall identify by five-year period, beginning with 2005 and ending with 2020, the following:

(A) The number of additional national cemeteries required during each such five-year period.

(B) With respect to each such five-year period, the areas in the United States with the greatest concentration of veterans whose needs are not served by national cemeteries or State veterans' cemeteries.

(c) **REPORT.**—(1) Not later than one year after the date on which a qualified organization enters into a contract under subsection (a), the organization shall submit to the Secretary a report setting forth the results of the study conducted and conclusions of the organization with respect to such results.

Deadlines.

(2) Not later than 120 days after the date on which a report is submitted under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a copy of the report, together with any comments on the report that the Secretary considers appropriate.

Subtitle C—Burial Benefits

SEC. 621. INDEPENDENT STUDY ON IMPROVEMENTS TO VETERANS' BURIAL BENEFITS.

Deadline.
Contracts.

(a) **STUDY.**—Not later than 60 days after the date of the enactment of this Act, the Secretary shall enter into a contract with one or more qualified organizations to conduct a study of burial benefits under chapter 23 of title 38, United States Code. For purposes of this section, an entity of Federal, State, or local government is not a qualified organization.

(b) **MATTERS STUDIED.**—The study conducted pursuant to the contract entered into under subsection (a) shall include consideration of the following:

(1) An assessment of the adequacy and effectiveness of the burial benefits administered by the Secretary under chapter 23 of title 38, United States Code, in meeting the burial needs of veterans and their families.

(2) Options to better serve the burial needs of veterans and their families, including modifications to burial benefit amounts and eligibility, together with the estimated cost for each such modification.

(3) Expansion of the authority of the Secretary to provide burial benefits for burials in private-sector cemeteries and to make grants to private-sector cemeteries.

Deadlines.

(c) **REPORT.**—(1) Not later than 120 days after the date on which a qualified organization enters into a contract under subsection (a), the organization shall submit to the Secretary a report setting forth the results of the study conducted and conclusions of the organization with respect to those results.

(2) Not later than 60 days after the date on which a report is submitted under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments on the report that the Secretary considers appropriate.

TITLE VII—EDUCATION AND HOUSING MATTERS

Subtitle A—Education Matters

SEC. 701. AVAILABILITY OF MONTGOMERY GI BILL BENEFITS FOR PREPARATORY COURSES FOR COLLEGE AND GRADUATE SCHOOL ENTRANCE EXAMS.

Section 3002(3) is amended—

(1) by striking “, and” at the end of subparagraph (A) and inserting a semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) includes—

“(i) a preparatory course for a test that is required or used for admission to an institution of higher education; and

“(ii) a preparatory course for a test that is required or used for admission to a graduate school; and”.

SEC. 702. DETERMINATION OF ELIGIBILITY PERIOD FOR MEMBERS OF THE ARMED FORCES COMMISSIONED FOLLOWING COMPLETION OF OFFICER TRAINING SCHOOL.

(a) MEASUREMENT OF PERIOD COUNTED FOR GI BILL ELIGIBILITY.—Section 3011(f) is amended—

(1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraph (2) or (3)”; and

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

“(3) This subsection applies to a member who after a period of continuous active duty as an enlisted member or warrant officer, and following successful completion of officer training school, is discharged in order to accept, without a break in service, a commission as an officer in the Armed Forces for a period of active duty.”.

Applicability.

(b) CONFORMING AMENDMENTS FOR TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT.—Section 3031 is amended—

(1) by redesignating subsection (g) as subsection (h);

(2) in subsection (a)—

(A) by striking “through (e)” and inserting “through (g)”; and

(B) by striking “subsection (g)” and inserting “subsection (h)”; and

(3) by inserting after subsection (f) the following new subsection:

“(g) In the case of an individual described in section 3011(f)(3) of this title, the period during which that individual may use the individual’s entitlement to educational assistance allowance expires on the last day of the 10-year period beginning on the date of the enactment of the Veterans Millennium Health Care and Benefits Act if that date is later than the date that would otherwise be applicable to that individual under this section.”.

(c) EFFECTIVE DATE.—The amendments made by subsection

(a) shall take effect on the date of the enactment of this Act and apply with respect to an individual first appointed as a commissioned officer on or after July 1, 1985.

Applicability.
38 USC 3011
note.

SEC. 703. REPORT ON VETERANS’ EDUCATION AND VOCATIONAL TRAINING BENEFITS PROVIDED BY THE STATES.

(a) REPORT.—(1) Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report on veterans education and vocational training benefits provided by the States.

Deadlines.

(2) Benefits to be considered to be veterans education and vocational training benefits for the purpose of this section include any education or vocational training benefit provided by a State (including any political subdivision of a State) for which persons are eligible by reason of service in the Armed Forces, including, in the case of persons who died in the Armed Forces or as a result of a disease or disability incurred in the Armed Forces, benefits provided by reason of the service of those persons to their survivors or dependents.

(3) For purposes of this section, the term “veteran” includes a person serving on active duty or in one of the reserve components and a person who died while in the active military, naval, or air service.

(b) **MATTERS TO BE INCLUDED.**—The report under this section shall include the following:

(1) A description, by State, of the veterans education and vocational training benefits provided, including—

(A) identification of benefits that are provided specifically for disabled veterans or for which disabled veterans receive benefits in a different amount; and

(B) identification of benefits for which survivors of persons who died in the Armed Forces (or as a result of a disease or disability incurred in the Armed Forces) or who were disabled in the Armed Forces are eligible.

(2) For each State that provides a veterans education benefit consisting of full or partial tuition assistance for post-secondary education, a description of that benefit, including whether the benefit is limited to tuition for attendance at an institution of higher education in that State or to tuition for attendance at a public institution of higher education in that State.

(3) A description of actions and programs of the Department of Veterans Affairs, the Department of Defense, the Department of Education, and the Department of Labor to encourage the States to provide benefits designed to assist veterans in securing post-secondary education and vocational training.

(c) **CONSULTATION.**—The report under this section shall be prepared in consultation with the Secretary of Education, the Secretary of Defense, and the Secretary of Labor.

(d) **STATE DEFINED.**—For purposes of this section, the term “State” has the meaning given that term in section 101(20) of title 38, United States Code.

SEC. 704. TECHNICAL AMENDMENTS.

Sections 3011(i) and 3012(g)(1) are amended by striking “Federal”.

Subtitle B—Housing Matters

SEC. 711. EXTENSION OF AUTHORITY FOR HOUSING LOANS FOR MEMBERS OF THE SELECTED RESERVE.

Section 3702(a)(2)(E) is amended by striking “September 30, 2003,” and inserting “September 30, 2007,”.

SEC. 712. TECHNICAL AMENDMENT RELATING TO TRANSITIONAL HOUSING LOAN GUARANTEE PROGRAM.

Section 3775 is amended—

(1) by inserting “(a)” before “During each”; and

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

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

TITLE VIII—DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATIVE MATTERS

SEC. 801. ENHANCED QUALITY ASSURANCE PROGRAM WITHIN THE VETERANS BENEFITS ADMINISTRATION.

(a) IN GENERAL.—(1) Chapter 77 is amended by adding at the end the following new subchapter:

“SUBCHAPTER III—QUALITY ASSURANCE

“§ 7731. Establishment

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

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

“§ 7732. Functions

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

“§ 7733. Personnel

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

“§ 7734. Annual report to Congress

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

“(1) an appraisal of the quality of services provided by the Veterans Benefits Administration, including—

“(A) the number of decisions reviewed;

“(B) a summary of the findings on the decisions reviewed;

“(C) the number of full-time equivalent employees assigned to quality assurance in each division or entity;

“(D) specific documentation of compliance with the standards for independence and internal control required by section 7731(b) of this title; and

“(E) actions taken to improve the quality of services provided and the results obtained;

“(2) information with respect to the accuracy of decisions, including trends in that information; and

“(3) such other information as the Secretary considers appropriate.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

“SUBCHAPTER III—QUALITY ASSURANCE

“7731. Establishment.

“7732. Functions.

“7733. Personnel.

“7734. Annual report to Congress.”.

(b) **EFFECTIVE DATE.**—Subchapter III of chapter 77 of title 38, United States Code, as added by subsection (a), shall take effect at the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 802. EXTENSION OF AUTHORITY TO MAINTAIN A REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES.

Section 315(b) is amended by striking “December 31, 1999” and inserting “December 31, 2003”.

SEC. 803. EXTENSION OF ADVISORY COMMITTEE ON MINORITY VETERANS.

Section 544(e) is amended by striking “December 31, 1999” and inserting “December 31, 2003”.

SEC. 804. TECHNICAL AMENDMENT TO AUTOMOBILE ASSISTANCE PROGRAM.

Section 3903(e)(2) is amended by striking “(not owned by the Government)”.

TITLE IX—HOMELESS VETERANS PROGRAMS

SEC. 901. HOMELESS VETERANS' REINTEGRATION PROGRAMS.

(a) **IN GENERAL.**—Chapter 41 is amended by adding at the end the following new section:

“§ 4111. Homeless veterans' reintegration programs

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

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

“(c) **DEFINITION.**—For purposes of this section, the term ‘homeless veteran’ has the meaning given that term by section 3771(2) of this title.

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

“(A) \$10,000,000 for fiscal year 2000.

“(B) \$15,000,000 for fiscal year 2001.

“(C) \$20,000,000 for fiscal year 2002.

“(D) \$20,000,000 for fiscal year 2003.

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

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“4111. Homeless veterans’ reintegration programs.”.

SEC. 902. EXTENSION OF PROGRAM OF HOUSING ASSISTANCE FOR HOMELESS VETERANS.

Section 3735(c) is amended by striking “December 31, 1999” and inserting “December 31, 2003”.

SEC. 903. HOMELESS VETERANS PROGRAMS.

The Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended as follows:

(1) Section 3(a)(1) is amended by inserting “, and expanding existing programs for furnishing,” after “new programs to furnish”.

(2) Section 3(a)(2) is amended by striking “September 30, 1999” and inserting “September 30, 2003”.

(3) Section 3(b)(2) is amended by striking “and no more than 20 programs which incorporate the procurement of vans as described in paragraph (1)”.

(4) Section 12 is amended in the first sentence by inserting “and \$50,000,000 for each of fiscal years 2000 and 2001” after “for fiscal years 1993 through 1997”.

SEC. 904. PLAN FOR EVALUATION OF PERFORMANCE OF PROGRAMS TO ASSIST HOMELESS VETERANS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report containing a detailed plan for the evaluation by the Department of Veterans Affairs of the effectiveness of programs to assist homeless veterans. The plan shall be prepared in consultation with the Secretary of Housing and Urban Development and the Secretary of Labor.

Deadline.

(b) INCLUSION OF OUTCOME MEASURES.—The plan shall include outcome measures to show whether veterans for whom housing or employment is secured through one or more of those programs continue to be housed or employed, as the case may be, after six months.

TITLE X—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SEC. 1001. SHORT TITLE.

This title may be cited as the “Court of Appeals for Veterans Claims Amendments of 1999”.

Court of Appeals
for Veterans
Claims
Amendments of
1999.
38 USC 101 note.

38 USC 7296
note.

SEC. 1002. DEFINITION.

In this title, the term "Court" means the United States Court of Appeals for Veterans Claims.

Subtitle A—Transitional Provisions To Stagger Terms of Judges

38 USC 7296
note.

SEC. 1011. EARLY RETIREMENT AUTHORITY FOR CURRENT JUDGES.

(a) **RETIREMENT AUTHORIZED.**—One eligible judge may retire in accordance with this section in 2000 or 2001, and one additional eligible judge may retire in accordance with this section in 2001.

(b) **ELIGIBLE JUDGES.**—For purposes of this section, an eligible judge is a judge of the Court (other than the chief judge) who—

(1) has at least 10 years of service creditable under section 7296 of title 38, United States Code;

(2) has made an election to receive retired pay under section 7296 of such title;

(3) has at least 20 years of service described in section 7297(1) of such title; and

(4) is at least 55 years of age.

(c) **MULTIPLE ELIGIBLE JUDGES.**—If for any year specified in subsection (a) more than one eligible judge provides notice in accordance with subsection (d), the judge who has the greatest seniority as a judge of the Court shall be the judge who is eligible to retire in accordance with this section in that year.

President.

(d) **NOTICE.**—An eligible judge who desires to retire in accordance with this section with respect to any year covered by subsection (a) shall provide to the President and the chief judge of the Court written notice to that effect and stating that the judge agrees to the temporary service requirements of subsection (j). Such notice shall be provided not later than April 1 of that year and shall specify the retirement date in accordance with subsection (e). Notice provided under this subsection shall be irrevocable.

Deadline.

(e) **DATE OF RETIREMENT.**—A judge who is eligible to retire in accordance with this section shall be retired during the calendar year as to which notice is provided pursuant to subsection (d), but not earlier than 30 days after the date on which that notice is provided pursuant to subsection (d).

(f) **APPLICABLE PROVISIONS.**—Except as provided in subsections (g) and (j), a judge retired in accordance with this section shall be considered for all purposes to be retired under section 7296(b)(1) of title 38, United States Code.

(g) **APPLICABILITY OF RECALL STATUS AUTHORITY.**—The provisions of section 7257 of this title shall apply to a judge retired in accordance with this section as if the judge is a judge specified in subsection (a)(2)(A) of that section.

(h) **RATE OF RETIRED PAY.**—The rate of retired pay for a judge retiring in accordance with this section is—

(1) the rate applicable to that judge under section 7296(c)(1) of title 38, United States Code, multiplied by

(2) the fraction (not in excess of 1) in which—

(A) the numerator is the number of years of service of the judge as a judge of the Court creditable under section 7296 of such title; and

(B) the denominator is 15.

(i) **ADJUSTMENTS IN RETIRED PAY FOR JUDGES AVAILABLE FOR RECALL.**—Subject to section 7296(f)(3)(B) of title 38, United States Code, an adjustment provided by law in annuities payable under civil service retirement laws shall apply to retired pay under this section in the case of a judge who is a recall-eligible retired judge under section 7257 of such title or who was a recall-eligible retired judge under that section and was removed from recall status under subsection (b)(4) of that section by reason of disability. Applicability.

(j) **DUTY OF ACTUARY.**—Section 7298(e)(2) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

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

(k) **TRANSITIONAL SERVICE OF JUDGE RETIRED UNDER THIS SECTION.**—(1) A judge who retires under this section shall continue to serve on the Court during the period beginning on the effective date of the judge’s retirement under subsection (e) and ending on the earlier of—

(A) the date on which a person is appointed to the position on the Court vacated by the judge’s retirement; and

(B) the date on which the judge’s original appointment to the court would have expired.

(2) Subsections (f) and (g) of section 7253 of title 38, United States Code, shall apply with respect to the service of a judge on the Court under this section. Applicability.

(3) Notwithstanding any other provision of law, a person whose service as a judge of the Court continues under this section shall be paid for the period of service under this subsection at the rate that is the difference between the current rate of pay for a judge of the Court and the rate of the judge’s retired pay under subsection (g).

(4) Amounts paid under paragraph (3)—

(A) shall not be treated as—

(i) compensation for employment with the United States for purposes of section 7296(e) of title 38, United States Code, or any provision of title 5, United States Code, relating to the receipt or forfeiture of retired pay or retirement annuities by a person accepting compensation for employment with the United States; or

(ii) pay for purposes of deductions or contributions for or on behalf of the person to retired pay under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable; but

(B) may, at the election of the person, be treated as pay for purposes of deductions or contributions for or on behalf of the person to a retirement or other annuity, or both, under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable.

(5) Amounts paid under paragraph (3) shall be derived from amounts available for payment of salaries and benefits of judges of the Court.

(6) The service as a judge of the Court under this subsection of a person who makes an election provided for under paragraph (4)(B) shall constitute creditable service toward the judge's years of judicial service for purposes of section 7297 of title 38, United States Code, with such service creditable at a rate equal to the rate at which such service would be creditable for such purposes if served by a judge of the Court under chapter 72 of that title. For purposes of subsection (k)(3) of that section, the average annual pay for such service shall be the sum of the judge's retired pay and the amount paid under paragraph (3) of this subsection.

(7) In the case of such a person who makes an election provided for under paragraph (4)(B), upon the termination of the service of that person as a judge of the Court under this subsection, the retired pay of that person under subsection (g) shall be recomputed to reflect the additional period of service served under this subsection.

(I) TREATMENT OF POLITICAL PARTY MEMBERSHIP.—For purposes of determining compliance with the last sentence of section 7253(b) of title 38, United States Code, the political party membership of a judge serving on the Court under subsection (j) shall not be taken into account.

38 USC 7296
note.

SEC. 1012. MODIFIED TERMS FOR NEXT TWO JUDGES APPOINTED TO THE COURT.

(a) MODIFIED TERMS.—The term of office of the first two judges appointed to the Court after the date of the enactment of this Act shall be 13 years (rather than the period specified in section 7253(c) of title 38, United States Code).

(b) ELIGIBILITY FOR RETIREMENT.—(1) For purposes of determining the eligibility to retire under section 7296 of title 38, United States Code, of the two judges of the Court whose term of office is determined under subsection (a)—

Applicability.

(A) the age and service requirements in the table in paragraph (2) shall apply to those judges rather than the otherwise applicable age and service requirements specified in the table in subsection (b)(1) of that section; and

(B) the minimum years of service applicable to those judges for eligibility to retire under the first sentence of subsection (b)(2) of that section shall be 13 years instead of 15 years.

(2) The age and service requirements in this paragraph are as follows:

The judge has attained age:	And the years of service as a judge are at least
65	13
66	13
67	13
68	12
69	11
70	10.

Subtitle B—Other Matters Relating to Retired Judges

SEC. 1021. RECALL OF RETIRED JUDGES.

(a) AUTHORITY TO RECALL RETIRED JUDGES.—Chapter 72 is amended by inserting after section 7256 the following new section:

“§ 7257. Recall of retired judges

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

“(2) For the purposes of this section—

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

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

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

Certification.

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

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

“(4) A recall-eligible retired judge who becomes permanently disabled and as a result of that disability is unable to perform further service on the Court shall be removed from the status of a recall-eligible judge. Determination of such a disability shall be made pursuant to section 7253(g) or 7296(g) of this title.

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

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

“(2) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge’s annuity under the applicable provisions of chapter 83 or 84 of title 5.

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

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

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7256 the following new item:

"7257. Recall of retired judges."

SEC. 1022. JUDGES' RETIRED PAY.

(a) IN GENERAL.—Subsection (c)(1) of section 7296 is amended by striking "at the rate of pay in effect at the time of retirement." and inserting the following: "as follows:

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

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

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

(b) COST-OF-LIVING ADJUSTMENTS.—Subsection (f) of such section is amended by adding at the end the following new paragraph:

"(3)(A) A cost-of-living adjustment provided by law in annuities payable under civil service retirement laws shall apply to retired pay under this section only in the case of retired pay computed under paragraph (2) of subsection (c).

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

SEC. 1023. SURVIVOR ANNUITIES.

(a) SURVIVING SPOUSE.—Subsection (a)(5) of section 7297 is amended by striking "two years" and inserting "one year".

(b) ELECTION TO PARTICIPATE.—Subsection (b) of such section is amended in the first sentence by inserting before the period "or within six months after the date on which the judge marries if the judge has retired under section 7296 of this title".

(c) REDUCTION IN CONTRIBUTIONS.—Subsection (c) of such section is amended by striking "3.5 percent of the judge's pay" and inserting "that percentage of the judge's pay that is the same as provided for the deduction from the salary or retirement salary of a judge of the United States Court of Federal Claims for the purpose of a survivor annuity under section 376(b)(1)(B) of title 28".

(d) INTEREST PAYMENTS.—Subsection (d) of such section is amended—

(1) by inserting “(1)” after “(d)”; and

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

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

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

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

(e) SERVICE ELIGIBILITY.—(1) Subsection (f) of such section is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A)—

(i) by striking “at least 5 years” and inserting “at least 18 months”; and

(ii) by striking “last 5 years” and inserting “last 18 months”; and

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

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

(2) Subsection (a) of such section is further amended—

(A) in paragraph (2), by inserting “who is in active service or who has retired under section 7296 of this title” after “Court”;

(B) in paragraph (3), by striking “7296(c)” and inserting “7296”; and

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

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

(f) AGE REQUIREMENT OF SURVIVING SPOUSE.—Subsection (f) of such section is further amended by striking “or following the surviving spouse’s attainment of the age of 50 years, whichever is the later” in paragraph (1)(A).

SEC. 1024. LIMITATION ON ACTIVITIES OF RETIRED JUDGES.

(a) IN GENERAL.—Chapter 72 is amended by adding at the end the following new section:

“§ 7299. Limitation on activities of retired judges

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

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

Applicability.

recall-eligible judge shall apply only during periods when the judge is serving in recall status.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“7299. Limitation on activities of retired judges.”

Subtitle C—Rotation of Service of Judges as Chief Judge of the Court

SEC. 1031. REPEAL OF SEPARATE APPOINTMENT OF CHIEF JUDGE.

Subsection (a) of section 7253 is amended to read as follows:

“(a) COMPOSITION.—The Court of Appeals for Veterans Claims is composed of at least three and not more than seven judges, one of whom shall serve as chief judge in accordance with subsection (d).”

SEC. 1032. DESIGNATION AND TERM OF CHIEF JUDGE OF COURT.

(a) ROTATION.—Subsection (d) of section 7253 is amended to read as follows:

“(d) CHIEF JUDGE.—(1) The chief judge of the Court shall be the judge of the Court in regular active service who is senior in commission among the judges of the Court who—

“(A) have served for one or more years as judges of the Court; and

“(B) have not previously served as chief judge.

“(2) In any case in which there is no judge of the Court in regular active service who has served as a judge of the Court for at least one year, the judge of the court in regular active service who is senior in commission and has not served previously as chief judge shall act as the chief judge.

“(3) Except as provided in paragraph (4), a judge of the Court shall serve as the chief judge under paragraph (1) for a term of five years or until the judge becomes age 70, whichever occurs first. If no other judge is eligible under paragraph (1) to serve as chief judge upon the expiration of that term, that judge shall continue to serve as chief judge until another judge becomes eligible under that paragraph to serve as chief judge.

“(4)(A) The term of a chief judge shall be terminated before the end of the term prescribed by paragraph (3) if—

“(i) the chief judge leaves regular active service as a judge of the court; or

“(ii) the chief judge notifies the other judges of the court in writing that such judge desires to be relieved of the duties of chief judge.

Effective date.

“(B) The effective date of a termination of the term under subparagraph (A) shall be the date on which the chief judge leaves regular active service or the date of the notification under subparagraph (A)(ii), as the case may be.

“(5) If a chief judge is temporarily unable to perform the duties of chief judge, those duties shall be performed by the judge of the court in active service who is present, able and qualified to act, and is next in precedence.

“(6) Judges who have the same seniority in commission shall be eligible for service as chief judge in accordance with their relative precedence.”.

(b) **INELIGIBILITY OF JUDGES ON TEMPORARY SERVICE.**—A person serving as a judge of the Court under section 1011 may not serve as chief judge of the Court.

38 USC 7296
note.

SEC. 1033. SALARY.

Subsection (e) of section 7253 is amended to read as follows:

“(e) **SALARY.**—Each judge of the Court shall receive a salary at the same rate as is received by judges of the United States district courts.”.

SEC. 1034. PRECEDENCE OF JUDGES.

Subsection (d) of section 7254 is amended to read as follows:

“(d) **PRECEDENCE OF JUDGES.**—The chief judge of the Court shall have precedence and preside at any session that the chief judge attends. The other judges shall have precedence and preside according to the seniority of their original commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.”.

SEC. 1035. CONFORMING AMENDMENTS.

Chapter 72 is amended as follows:

(1) Section 7281(g) is amended to read as follows:

“(g) The chief judge of the Court may exercise the authority of the Court under this section whenever there are not at least two other judges of the Court.”.

(2) Sections 7296(a)(2) and 7297(a)(2) are amended by striking “the chief judge or an associate judge” and inserting “a judge”.

SEC. 1036. APPLICABILITY OF AMENDMENTS.

(a) **EFFECTIVE DATE.**—The amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) **SAVINGS PROVISION FOR INCUMBENT CHIEF JUDGE.**—The amendments made by this subtitle shall not apply while the individual who is chief judge of the Court on the date of the enactment of this Act continues to serve as chief judge. If that individual, upon termination of service as chief judge, provides notice under section 7257 of title 38, United States Code, of availability for service in a recalled status, the rate of pay applicable to that individual under section 7296(c)(1)(A) of such title while serving in a recalled status shall be at the rate of pay applicable to that individual at the time of retirement, if greater than the rate otherwise applicable under that section.

38 USC 7253
note.

TITLE XI—VOLUNTARY SEPARATION INCENTIVE PROGRAM

SEC. 1101. SHORT TITLE.

This title may be cited as the “Department of Veterans Affairs Employment Reduction Assistance Act of 1999”.

Department of
Veterans Affairs
Employment
Reduction
Assistance Act of
1999.
5 USC 5597 note.

5 USC 5597 note. **SEC. 1102. PLAN FOR PAYMENT OF VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

(a) **IN GENERAL.**—The Secretary of Veterans Affairs shall, before obligating any funds for the payment of voluntary separation incentive payments under this title, submit to the Director of the Office of Management and Budget an operational plan outlining the proposed use of such incentive payments and a proposed organizational chart for the elements of the Department of Veterans Affairs covered by the plan once the payment of such incentive payments has been completed.

(b) **CONTENTS.**—The plan under subsection (a) shall—

(1) take into account the limitations on elements, and personnel within elements, of the Department specified in subsection (c);

(2) specify the positions to be reduced or eliminated and functions to be restructured or reorganized, identified by element of the Department, geographic location, occupational category, and grade level;

(3) specify the manner in which the plan will improve operating efficiency, or meet actual or anticipated levels of budget or staffing resources, of each element covered by the plan and of the Department generally; and

(4) include a description of how each element of the Department covered by the plan will operate without the functions or positions affected by the implementation of the plan.

(c) **LIMITATION ON ELEMENTS AND PERSONNEL.**—The plan under subsection (a) shall be limited to the elements of the Department, and the number of positions within such elements, as follows:

(1) The Veterans Health Administration, 4,400 positions.

(2) The Veterans Benefits Administration, 240 positions.

(3) Department of Veterans Affairs Staff Offices, 45 positions.

(4) The National Cemetery Administration, 15 positions.

(d) **APPROVAL.**—(1) The Director of the Office of Management and Budget shall approve or disapprove the plan submitted under subsection (a).

(2) In approving the plan, the Director may make such modifications to the plan as the Director considers appropriate with respect to the following:

(A) The number and amounts of voluntary incentive payments that may be paid under the plan.

(B) Any other matter that the Director considers appropriate.

(3) In the event of the disapproval of a plan by the Director under paragraph (1), the Secretary may modify and resubmit the plan to the Director. The provisions of this section shall apply to any plan submitted to the Director under this paragraph as if such plan were the initial plan submitted to the Director under subsection (a).

Applicability.

5 USC 5597 note. **SEC. 1103. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

(a) **AUTHORITY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**—(1) The Secretary may pay a voluntary separation incentive payment to an eligible employee only—

(A) to the extent necessary to reduce or restructure the positions and functions identified by the plan approved under section 1102; and

(B) if the Under Secretary concerned, or the head of the staff office concerned, approves the payment of the voluntary separation incentive payment to that employee.

(2) In order to receive a voluntary separation incentive payment under this title, an employee must separate from service with the Department voluntarily (whether by retirement or resignation) under the provisions of this title.

(b) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(1) shall be paid in a lump sum after the employee's separation under this title;

(2) shall be in an amount equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under that section (without adjustment for any previous payment made under that section); or

(B) an amount determined by the Secretary, not to exceed \$25,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(4) shall not be taken into account in determining the amount of severance pay to which an employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(c) SOURCE OF FUNDS.—Voluntary separation incentive payments under this title shall be paid from the appropriations or funds available for payment of the basic pay of the employees of the Department.

SEC. 1104. EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.

5 USC 5597 note.

(a) REPAYMENT UPON REEMPLOYMENT.—Except as provided in subsection (b), an individual who is paid a voluntary separation incentive payment under this title and who subsequently accepts employment with the Government within five years after the date of the separation on which the payment is based shall be required to repay to the Secretary, before the individual's first day of such employment, the entire amount of the voluntary separation incentive payment paid to the individual under this title.

(b) WAIVER AUTHORITY FOR CERTAIN INDIVIDUALS.—(1) If the employment of an individual under subsection (a) is with an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of such agency, waive repayment by the individual under that subsection if the individual possesses unique abilities and is the only qualified applicant available for the position.

(2) If the employment of an individual under subsection (a) is with an entity in the legislative branch, the head of the entity or the appointing official may waive repayment by the individual under that subsection if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment of an individual under subsection (a) is with the judicial branch, the Director of the Administrative

Office of the United States Courts may waive repayment by the individual under that subsection if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(c) **EMPLOYMENT DEFINED.**—for purposes of this section, the term “employment” includes—

(1) for purposes of subsections (a) and (b), employment of any length or under any type of appointment, but does not include employment that is without compensation; and

(2) for purposes of subsection (a), employment with any agency of the Government through a personal services contract.

5 USC 5597 note.

SEC. 1105. ADDITIONAL AGENCY CONTRIBUTIONS TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) **REQUIREMENT.**—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Secretary shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 26 percent of the final basic pay of each employee of the Department who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive is paid under this title.

(b) **FINAL BASIC PAY DEFINED.**—For purposes of this section, the term “final basic pay”, with respect to an employee, means the total amount of basic pay that would be payable for a year of service by the employee, computed using the employee’s final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

SEC. 1106. CONTINUED HEALTH INSURANCE COVERAGE.

Section 8905a(d) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking “paragraph (4)” and inserting “paragraphs (4) and (5)”; and

(2) in paragraph (2), by striking “(1) or (4)” and inserting “(1), (4), or (5)”; and

(3) by adding at the end the following new paragraph:
“(5)(A) If the basis for continued coverage under this section is an involuntary separation from a position in or under the Department of Veterans Affairs due to a reduction in force or a title 38 staffing readjustment—

“(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

“(ii) the agency which last employed the individual shall pay the remaining portion of the amount required under paragraph (1)(A).”

Applicability.

“(B) This paragraph shall only apply with respect to individuals whose continued coverage is based on a separation occurring on or after the date of the enactment of this paragraph.”.

5 USC 5597 note.

SEC. 1107. PROHIBITION OF REDUCTION OF FULL-TIME EQUIVALENT EMPLOYMENT LEVEL.

(a) **PROHIBITION.**—The total full-time equivalent employment in the Department may not be reduced by reason of the separation of an employee (or any combination of employees) receiving a voluntary separation incentive payment under this title.

(b) **ENFORCEMENT.**—The President, through the Office of Management and Budget, shall monitor the Department and take any action necessary to ensure that the requirements of this section are met. President.

SEC. 1108. REGULATIONS.

5 USC 5597 note.

The Director of the Office of Personnel Management may prescribe any regulations necessary to administer this title.

SEC. 1109. LIMITATION; SAVINGS CLAUSE.

5 USC 5597 note.

(a) **LIMITATION.**—No voluntary separation incentive payment may be paid under this title based on the separation of an employee after December 31, 2000.

(b) **RELATIONSHIP TO OTHER AUTHORITY.**—This title supplements and does not supersede any other authority of the Secretary to pay voluntary separation incentive payments to employees of the Department.

SEC. 1110. ELIGIBLE EMPLOYEES.

5 USC 5597 note.

For purposes of this title:

(1) **IN GENERAL.**—Except as provided in paragraph (2), the term “eligible employee” means an employee (as defined by section 2105 of title 5, United States Code) of the Department of Veterans Affairs, who is serving under an appointment without time limitation and has been employed by the Department as of the date of separation under this title for a continuous period of at least three years.

(2) **EXCEPTIONS.**—Such term does not include the following:

(A) A reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government.

(B) An employee having a disability on the basis of which such employee is eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government.

(C) An employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance.

(D) An employee who previously has received any voluntary separation incentive payment by the Government under this title or any other authority.

(E) An employee covered by statutory reemployment rights who is on transfer to another organization.

(F) An employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or a recruitment bonus under section 7458 of title 38, United States Code.

(G) An employee who, during the 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code, or a retention bonus under section 458 of title 38, United States Code.

(H) An employee who, during the 24-month period preceding the date of separation, was relocated at the expense of the Federal Government.

Approved November 30, 1999.

LEGISLATIVE HISTORY—H.R. 2116:

HOUSE REPORTS: Nos. 106-237 (Comm. on Veterans' Affairs) and 106-470 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 145 (1999):

Sept. 21, considered and passed House.

Nov. 5, considered and passed Senate, amended.

Nov. 16, House agreed to conference report.

Nov. 19, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 35 (1999):

Nov. 30, Presidential statement.