

thereby leader of the Helms Senate family. I do not have a staff. The fine, dedicated people in our offices are truly a family.

Mr. President, I ask unanimous consent the text of the June 26, 1997, resolution adopted by the North Carolina General Assembly honoring Mel Broughton be printed in the RECORD.

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

JOINT RESOLUTION BY THE GENERAL ASSEMBLY OF NORTH CAROLINA JUNE 26, 1997 HONORING THE LIFE AND MEMORY OF J. MELVILLE BROUGHTON, JR.—JUNE 26, 1997

Whereas, J. Melville Broughton, Jr., a lifelong resident of the City of Raleigh was born on March 24, 1922, and attended Wake Forest University, Duke University, and graduated from the University of North Carolina School of Law; and

Whereas, J. Melville Broughton, Jr., proudly served his country in World War II as a First Lieutenant in the United States Marine Corps; and

Whereas, following his admission to the North Carolina State Bar, J. Melville Broughton, Jr., served for four years as a prosecutor in Raleigh Municipal Court and then entered the general practice of law with the firm founded by his father (now known as Broughton, Wilkins, Webb and Sugg) where he remained for 45 years; and

Whereas, from 1957 to 1961, J. Melville Broughton, Jr., served as Chairman of the North Carolina Highway Commission, and later under Governor Dan K. Moore served as the Chairman of the North Carolina Democratic Party; and finally in 1968, ran for the Democratic nomination for Governor against then Lieutenant Governor Robert Scott and Reginald Hawkins, finishing second in the primary; and

Whereas, J. Melville Broughton, Jr., was devoted to his State above all else and counted among his friends and those he supported at the polls both Democrats and Republicans; and, indeed, his bipartisanship was such that in 1975, President Gerald Ford nominated him to the National Legal Services Board, which was dedicated to providing legal representation to indigent persons; and

Whereas, J. Melville Broughton, Jr., was an active and lifelong member of Christ Episcopal Church in Raleigh and was involved in the Laubach Literacy national movement; and

Whereas, J. Melville Broughton, Jr., was a beloved figure in this General Assembly and in our entire State, warming us with his easy laugh and ready smile; his tall, rumped figure, with his coat pocket full of pencil stubs, moving gregariously among all sorts and conditions of men, encouraging, listening, advising, and at all times embodying the very essence of a true Christian gentleman; and

Whereas, J. Melville Broughton, Jr., passed away on April 17, 1997, and is survived by his wife, Mary Ann Cooper Broughton; his daughter, Harriet B. Gruber; two sons, J. Melville Broughton, III and James Wesley Cooper Broughton; and five grandchildren;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly expresses its high regard for the life and service of J. Melville Broughton, Jr., and mourns the loss to this date of such a distinguished citizen.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to the family of J. Melville Broughton, Jr.

Section 3. This resolution is effective upon ratification.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Thursday, July 3, 1997, the Federal debt stood at \$5,356,041,465,566.82. (Five trillion, three hundred fifty-six billion, forty-one million, four hundred sixty-five thousand, five hundred sixty-six dollars and eighty-two cents)

One year ago, July 3, 1996, the Federal debt stood at \$5,151,168,000,000. (Five trillion, one hundred fifty-one billion, one hundred sixty-eight million)

Five years ago, July 3, 1992, the Federal debt stood at \$3,982,257,000,000. (Three trillion, nine hundred eighty-two billion, two hundred fifty-seven million)

Ten years ago, July 3, 1987, the Federal debt stood at \$2,316,907,000,000. (Two trillion, three hundred sixteen billion, nine hundred seven million)

Twenty-five years ago, July 3, 1972, the Federal debt stood at \$428,504,000,000 (Four hundred twenty-eight billion, five hundred four million) which reflects a debt increase of nearly \$5 trillion—\$4,927,537,465,566.82 (Four trillion, nine hundred twenty-seven billion, five hundred thirty-seven million, four hundred sixty-five thousand, five hundred sixty-six dollars and eighty-two cents) during the past 25 years.

MESSAGES FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1119. An act to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 1119. An act to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2389. A communication from the Secretary of Energy, transmitting, pursuant to law, the thirteenth Annual Report on activities and expenditures of the Office of Civilian Radioactive Waste Management for Fiscal

Year 1996; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of June 27, 1997, the following reports of committees were submitted on July 1, 1997:

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany the bill (S. 507) to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes (Rept. No. 105-42).

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 830: A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes (Rept. No. 105-43).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER (by request):
S. 986. A bill to amend title 38, United States Code, to make certain improvements in the housing loan programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans Affairs.

S. 987. A bill to amend title 38, United States Code, to authorize a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and dependency and indemnity compensation for survivors of such veterans and to revise and improve certain veterans compensation, pension, and memorial affairs programs; and for other purposes; to the Committee on Veterans Affairs.

S. 988. A bill to amend chapter 72 of title 38, United States Code, to reform the retirement provisions relating to the Court's judicial component, to provide for a staggered judicial retirement option to avoid the large case backlog increase that would arise in the event of simultaneous judicial vacancies, to rename the United States Court of Veterans Appeals as the United States Court of Appeals for Veterans Claims, and for other purposes; to the Committee on Veterans Affairs.

By Mr. DORGAN (for himself and Mrs. FEINSTEIN):
S. 989. A bill entitled the "Safer Schools Act of 1997"; to the Committee on Labor and Human Resources.

By Mr. FAIRCLOTH:
S. 990. A bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (by request):
S. 986. A bill to amend title 38, United States Code, to make certain improvements in the housing loan programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' HOUSING LOAN IMPROVEMENTS ACT OF 1997

Mr. SPECTER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 986, the proposed Veterans' Housing Loan Improvements Act of 1997. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated June 4, 1997.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed section-by-section analysis of the draft legislation which accompanied it.

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

S. 986

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

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Housing Loan Improvements Act of 1997."

(b) REFERENCES TO TITLE 38.—Except as otherwise may be specifically provided, whenever in the 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. 2. LOAN FEE.

(a) Section 3729 is amended by striking out everything after the catchline, and inserting in lieu thereof:

"(a)(1) Except as provided in subsection (c) of the section, a fee shall be collected from each person obtaining a housing loan guaranteed, insured, or made under this chapter, and each person assuming a loan to which section 3714 of this title applies. Such a loan may not be guaranteed, insured, made, or assumed until the fee payable under this section has been remitted to the Secretary.

"(2) The fee may be included in the loan and paid from the proceeds thereof.

"(b)(1) The amount of the fee shall be determined from the table in subsection (d) of this section. The fee is expressed as a percentage of the total amount of the loan guaranteed, insured, or made, or, in the case of a loan assumption, the unpaid principal balance of the loan on the date of the transfer of the property.

"(2) Any reference to a section in the Type of Loan column in subsection (d) of this section refers to a section of this title.

"(3) For the purposes of this section:

"(A) The term 'Active Duty Veteran' means any veteran eligible for the benefits of this chapter other than a Reservist;

"(B) The term 'Reservist' means a veteran described in section 3701(b)(5)(A);

"(C) The term 'Other Obligor' means a person who is not a veteran, as defined by section 101 or other provision of this chapter;

"(D) The term 'initial loan described in section 3710' means a loan obtained by a veteran pursuant to section 3710 of this title if the veteran has never obtained a loan guaranteed under section 3710 or more under section 3711;

"(E) the term 'subsequent loan described in section 3710' means a loan obtained by a veteran pursuant to section 3710 title if the veteran has previously obtained a loan guaranteed under section 3710 or made under section 3711. The term shall not refer to an interest rate reduction refinancing loan;

"(F) The term 'interest rate reduction refinancing loan' means a loan described in section 3710(a)(8), 3710(a)(9)(B)(i), 7310(a)(11), 3712(a)(1)(F), or 3762(h);

"(G) The term '0-down' means a downpayment, if any, of less than 5 percent of the total purchase price or construction cost of the dwelling;

"(H) The term '5-down' means a downpayment of at least 5 percent but less than 10 percent of the total purchase price or construction cost of the dwelling;

"(I) The term '10-down' means a downpayment of 10 percent or more of the total purchase price or construction cost of the dwelling;

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

"(d) The following table establishes the percentages of fees to be collected under this section:

"LOAN FEE TABLE

"Type of loan	Active duty veteran	Reservist	Other obligor
"Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a)	2.00	2.75	NA
"Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a)	3.00	3.00	NA
"Loan described in section 3710(a) to purchase or construct a dwelling with 5-down	1.50	2.25	NA
"Loan described in section 3710(a) to purchase or construct a dwelling with 10-down	1.25	2.00	NA
"Interest rate reduction refinancing loan ..	0.50	0.50	NA
"Direct loan made under section 3711	1.00	1.00	NA
"Manufactured home loan described in section 3712 (other than an interest rate reduction refinancing loan)	1.00	1.00	NA
"Loan to Native American veteran made under section 3762 (other than an interest rate reduction refinancing loan) ..	1.25	1.25	NA
"Assuming a loan to which section 3714 applies	0.50	0.50	0.50
"Loan made under section 3733(a)	2.25	2.25	2.25

"(e) Notwithstanding subsection (d) of this section, the Secretary, by regulation, may prescribe a different percentage for the fee applicable to loans made under section 3733(a), if the Secretary finds a different amount is necessary so that the fee charged for such loans is consistent with the fees charged by other departments of the Government for similar loans available to the public, or if the Secretary determines that considerations of the market for properties sold by the Secretary necessitate a different fee."

(b) This section applies to any loan closed after September 30, 1997.

SEC. 3. EXTENSION OF NO-BID FORMULA.

Section 3732(c) is amended by striking out paragraph (1) in its entirety.

SEC. 4. ENHANCED VENDEE LOAN SALES.

Section 3720(h) is amended by: (a) striking out paragraph (2) in its entirety; and

(b) striking out "(h)(1)" and inserting in lieu thereof "(h)".

SEC. 5. REPEAL OF LOAN DEBT COLLECTION RESTRICTIONS.

Subchapter III of chapter 37 is amended by striking out section 3726 in its entirety.

SEC. 6. ACCOUNT CONSOLIDATION.

(a) Subchapter III of chapter 37 is amended by striking out sections 3723, 3724, and 3725 in their entirety.

(b) Such subchapter is further amended by inserting after section 3721 the following new section:

"§3722. Veterans Housing Benefit Program Fund

"(a) There is hereby established in the Treasury of the United States a fund known as the Veterans Housing Benefit Program Fund.

"(b) The Veterans Housing Benefit Program Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations under this chapter, consistent with the Federal Credit Reform Act of 1990.

"(c) There shall be deposited in the Veterans Housing Benefit Program Fund:

"(1) All money as of September 30, 1997, in: (A) the Direct Loan Revolving Fund established by section 513 of the Servicemen's Readjustment Act of 1944; (B) the Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 7(a) of Public Law 86-665; and (C) the Guaranty and Indemnity Fund established by section 302(a)(1) of Public Law 101-237;

"(2) All money hereafter appropriated for such Fund;

"(3) All fees collected by the Secretary on or after October 1, 1997, pursuant to section 3729, or any other provision of law or regulation established by the Secretary imposing fees on persons or other entities participating in the housing loan program under this chapter; and

"(4) All other amounts received by the Secretary on or after October 1, 1997, incident to housing loan operations under this chapter including, but not limited to, collections of principal and interest, proceeds from the sale, rental, use, or other disposition of property acquired under this chapter, proceeds from the sale of loans pursuant to sections 3720(h) and 3733(a)(3), and penalties collected pursuant to section 3710(g)(4)(B).

"(d) For purposes of this section, the term 'housing loan' shall not include a loan made pursuant to subchapter V of this chapter."

(c) The amendments made by this section shall take effect October 1, 1997.

SEC. 7. EXTENSION OF PILOT PROGRAM FOR DIRECT LOANS TO NATIVE AMERICAN VETERANS.

Section 3761(c) is amended by striking out "1997." and inserting in lieu thereof "1999."

SEC. 8. CONFORMING AMENDMENTS.

(a) Section 2106(e) is amended by striking out "either the direct loan or loan guaranty revolving fund established by section 3723 or 3724 of this title, respectively," and inserting in lieu thereof "the Veterans Housing Benefit Program Fund established by section 3722 of this title."

(b) Section 3703(e)(1) is amended by striking out "3729(c)(1)" and inserting in lieu thereof "3729(c)".

(c) Section 3711(k) is amended by striking out "and section 3723 of this title" both places it appears.

(d) Section 3720 is amended by striking out subsection (e) in its entirety and inserting in lieu thereof—

"(e) [Repealed.]".

(e) Section 3727(c) is amended by striking out "funds established pursuant to sections 3723 and 3724 of this title, as applicable." and inserting in lieu thereof "fund established pursuant to section 3722 of this title."

(f) Section 3733(a)(6) is amended by—

(1) striking out “Department of Veterans Affairs Loan Guaranty Revolving” and inserting in lieu thereof “Veterans Housing Benefit Program”; and

(2) striking out “3724(a)” and inserting in lieu thereof “3722(a)”.

(g) Section 3733 is further amended by striking out subsection (e) in its entirety.

(h) Section 3734 is amended by—

(1) striking out, in the catchline, “Loan Guaranty Revolving Fund and the Guaranty and Indemnity” and inserting in lieu thereof “Veterans Housing Benefit Program”;

(2) striking out, in subsection (a)(1), “Loan Guaranty Revolving Fund and the Guaranty and Indemnity” and inserting in lieu thereof “Veterans Housing Benefit Program”;

(3) striking out, in subsection (a)(2), “funds,” and inserting in lieu thereof “fund.”;

(4) striking out, in subsection (b), “each” and inserting in lieu thereof “the”; and

(5) striking out, in paragraph (2) of subsection (b), subparagraphs (B), (C), and (D) in their entirety, and redesignating subparagraphs (E), (F), and (G) as (B), (C), and (D), respectively.

(i) Section 3735(a)(3)(A)(i) is amended by striking out “Loan Guaranty Revolving Fund and the Guaranty and Indemnity” and inserting in lieu thereof “Veterans Housing Benefit Program”.

(j) The catchline for section 3763 is amended by striking out “Housing” and inserting in lieu thereof “Native American veteran housing”.

(k) The table of sections for subchapter III of chapter 37 is amended by—

(1) striking out the items relating to sections 3722, 3723, 3724, 3725, and 3726 and inserting in lieu thereof—

“3722. Veterans Housing Benefit Program Fund.

“[3723. Repealed.]

“[3724. Repealed.]

“[3725. Repealed.]

“[3726. Repealed.]”;

(2) striking out, in the item relating to section 3734, “Loan Guaranty Revolving Fund and the Guaranty and Indemnity” and inserting in lieu thereof “Veterans Housing Benefit Program”; and

(3) inserting at the end thereof the following new item:

“3736. Portfolio Loan Servicing.”.

(l) The table of sections for subchapter V of chapter 37 is amended by striking out, in the item related to section 3763, “Housing” and inserting in lieu thereof “Native American veteran housing”.

(m) Section 7(h)(2)(B) of Public Law 102-54, as amended (38 U.S.C. 1718 note), is amended by striking out “Loan Guaranty Revolving” and inserting in lieu thereof “Veterans Housing Benefit Program”.

SECTION-BY-SECTION ANALYSIS

SEC. 1. Subsection (a) provides that the draft bill may be cited as the “Veterans’ Housing Loan Improvements Act of 1997.”

Subsection (b) provides that, unless otherwise specified, whenever in the 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. 2. Subsection (a) of section 2 would replace the existing section 3729, which imposes fees on most persons obtaining or assuming a loan guaranteed or made by VA, with new, simplified language. The new section 3729 would contain an easy to read chart showing the appropriate fee depending on the type of loan and category of borrower.

The revised section would make permanent the increases in the fees enacted by section 12007 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93). That enactment increased the fees for most VA guaranteed housing loans by 75 basis points, or 0.75 percent of the loan amount, and imposed a fee of 3 percent of the loan on most veterans who had previously obtained a VA housing loan. These provisions are now set to expire on September 30, 1998.

In addition, the revised section 3729 increases the fee from 1.00 to 2.25 percent on loans made by VA in connection with the sale of VA-owned properties (vendee loans). Vendee loans are available to members of the public and are not a veterans benefit. This new fee would be set at the maximum initial mortgage insurance premium that the Federal Housing Administration (FHA) is permitted to charge for most single family mortgages. FHA also charges annual premiums that would not be authorized for VA. This section would also give VA discretion to issue regulations changing the fee charged for vendee loans if VA finds that a different amount is necessary so that this fee is consistent with the fees charged by other departments for similar loans, or if the Secretary determines that considerations of the market for properties sold by VA necessitate a different fee.

Except as noted above, the fee structure remains unchanged. The exemption from the fee in the current law given to certain disabled veterans and surviving spouses remains unchanged.

Subsection (b) would make the increased fee for vendee loans apply to all loans closed on or after October 1, 1997.

SEC. 3. Section 3 would repeal paragraph (1) of section 3732(c). This would make the no-bid formula permanent. As amended by section 12006 of OBRA 93, the no-bid formula requires VA to consider, in addition to other costs, VA’s loss on the resale of the property. The no-bid formula currently applies to all loans closed before October 1, 1998, regardless of the date the loan is terminated. This amendment would repeal the sunset.

SEC. 4. Section 4 would make permanent VA’s authority, contained in 38 U.S.C. §3720(h), to guarantee the certificates sold to investors when VA vendee loans are securitized. Since June 1988, vendee loans have been sold to a trust, which issues securities based on the pooled loans. Prior to the enactment of Public Law 102-291 in 1992, VA provided a full faith and credit guaranty on the vendee loans sold to the trust. VA could not, however, directly guarantee the certificates issued by the trust. Guaranteeing the certificates rather than the loans significantly increases the VA’s net proceeds from such sales, but does not significantly change VA’s exposure to loss. VA’s authority to guarantee the certificates currently has a sunset of December 31, 1997.

SEC. 5. Section 5 would repeal section 3726. Section 3726 currently prohibits VA, in most cases, from offsetting against Federal payments, other than VA benefits, debts owed to the Government resulting from the foreclosure of VA guaranteed or direct housing loans. This provision would permit VA to collect these debts by offsetting Federal salaries and income tax refunds as permitted by other Federal debt collection laws. The right of veterans to challenge the existence and amount of the debt through VA’s normal administrative process, including review by the Court of Veterans Appeals, and to seek waiver of the debt under current law would not be altered.

SEC. 6. Section 6 would consolidate the funding sources for the VA housing loan programs (except the pilot program for direct loans to native American Veterans) into a new fund in the Treasury.

Subsection (a) would repeal sections 3723, 3724, and 3725 which provide for the Direct Loan Revolving Fund (DLRF), the Loan Guaranty Revolving Fund (LGRF), and the Guaranty and Indemnity Fund (GIF), respectively. Those three funds currently provide the source of moneys for the VA housing loan programs (except the pilot program for direct loans to Native American veterans).

Subsection (b) would add a new section 3722 which would establish in the Treasury a new fund to be known as the “Veterans Housing Benefit Program Fund.” This new fund, consistent with the Federal Credit Reform Act of 1990, would be available, without fiscal year limitation, for all VA housing loan operations (except the pilot program for direct loans to Native American veterans).

The total available balances of the DLRF, LGRF, and GIF as of September 30, 1997, would be deposited into this new fund. Beginning October 1, 1997, all appropriations to the VA housing loan program would go into this new fund. In addition, beginning on that date, the new Veterans Housing Benefit Program Fund would receive all income from the loan program including, but not limited to, loan repayments, income from the sale, rental, or other use of acquired foreclosed properties, income from the sale of loans, and loan user fees.

Subsection (c) would make this section effective October 1, 1997.

SEC. 7. Section 7 would extend for two years; i.e., until September 30, 1999, the sunset for VA’s pilot program (sections 3761-3764) to make direct loans to Native American veterans living on trust land.

SEC. 8. Section 8 would make conforming amendments to various sections of title 38 and other statutes.

Subsection (a) would make a conforming amendment to section 2106(e).

Subsection (b) would make a conforming amendment to section 3703(e)(1).

Subsection (c) would make a conforming amendment to section 3711(k).

Subsection (d) would repeal the obsolete subsection (e) of section 3720. That subsection authorized VA to sell participation certificates in connection with the Federal National Mortgage Association. Such certificates have not been sold since the 1960s and all outstanding certificates have been redeemed.

Subsection (e) would make a conforming amendment to section 3727(c).

Subsection (f) would make conforming amendments to section 3733(a)(6).

Subsection (g) would also remove the obsolete section 3733(e). That provision, pertaining to the crediting of the proceeds from the sale of loans by VA, was repealed by implication by the Federal Credit Reform Act of 1990.

Subsection (h) would make conforming amendments to section 3734. It would also strike out the requirement for VA to report to the Congress regarding Government credits and investment income to the GIF, which were repealed by implication by the Federal Credit Reform Act of 1990.

Subsection (i) would make a conforming amendment to section 3735(a)(3)(A)(i).

Subsection (j) would make a technical correction to the catchline for section 3763.

Subsection (k) would make conforming amendments to the table of sections for subchapter III of chapter 37.

Subsection (l) would make a conforming amendment to the table of sections for subchapter V of chapter 37.

Subsection (m) would make a conforming amendment to section 7(h)(2)(B) of Public Law 102-54, as amended, (38 U.S.C. §1718 note).

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, June 4, 1997.

Hon. ALBERT GORE, JR.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "[t]o amend title 38, United States Code, to make certain improvements in the housing loan programs for veterans and eligible persons, and for other purposes." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

This measure, entitled the "Veterans' Housing Loan Improvements Act of 1997," would make amendments to the Department of Veterans Affairs' housing loan programs that would save costs, provide management efficiencies, and extend the sunset on two expiring authorities.

The draft bill would permanently extend several cost-saving measures originally enacted by the Omnibus Budget Reconciliation Act (OBRA) of 1993, increase the funding fee for "vendee" loans available to the general public, consolidate the funding for the housing loan program into one new account, and permit VA to collect housing loan debts through offset against other Federal payments in the same manner as all other Federal debts are now being collected. The bill would also make permanent VA's enhanced vendee loan sales authority, and extend for 2 years the pilot program for direct loans to Native American veterans.

A detailed section-by-section analysis of the draft bill is enclosed.

VA estimates that enactment of the draft bill would produce first year loan subsidy savings of approximately \$156 million in FY 1998 and \$3.283 billion over five years. Extending the OBRA 93 provisions, increasing the fee on vendee loans, and allowing VA to collect housing loan debts by setoff will produce subsidy savings. There is no additional subsidy appropriation required to extend the pilot program for direct loans to Native American veterans since the program has not fully expended the subsidy initially appropriated by Public Law 102-389.

The Office of Management and Budget advises that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the Administration's program.

Sincerely,

JESSE BROWN.

Enclosures.

By Mr. SPECTER (by request):

S. 987. A bill to amend title 38, United States Code, to authorize a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and dependency and indemnity compensation for survivors of such veterans and to revise and improve certain veterans compensation, pension, and memorial affairs programs; and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT AND BENEFITS PROGRAM IMPROVEMENT ACT OF 1997

Mr. SPECTER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans' Affairs, S. 987, the proposed Veterans' Compensation Cost-of-Living Adjustment and Benefits Program Improvement Act of 1997. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated May 9, 1997.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter which accompanied it.

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

S. 987

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

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment and Benefit Programs Improvement Act of 1997".

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

TITLE I—COMPENSATION AND PENSIONS

SEC. 101. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1997, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensations.

(2) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Cost-of-Living Adjustment Act of 1996 (Public Law 104-263; 110 Stat. 3212). This increase shall be made in such rates and limitations as in effect on November 30, 1997, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1997, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a)(2), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1998, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2) as increased under this section.

SEC. 102. ROUNDING DOWN OF COMPENSATION-RATE INCREASES

In computing rates and limitations pursuant to legislation enacted for fiscal years 1998 and thereafter which increases by a

specified percentage, or which directs the Secretary of Veterans Affairs to adjust administratively, the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, the Secretary of Veterans Affairs shall round down to the next lower whole-dollar amount any amount which as so computed is not an even multiple of \$1.

SEC. 103. EXTENSION OF INCOME-VERIFICATION AUTHORITY.

(a) Section 5317 is amended by striking out subsection (g).

(b) Subparagraph (D) of section 6103(1)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "Clause (viii) shall not apply after September 30, 1998."

SEC. 104. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) is amended by striking out paragraph (7).

SEC. 105. PROHIBITION REGARDING PAYMENT OF COMPENSATION FOR DISABILITY OR DEATH DUE TO TOBACCO USE.

(a) SERVICE CONNECTION.—Chapter 11 is amended by adding at the end of subchapter I the following new section:

"§ 1103. Special provisions relating to claims based upon effects of tobacco products

"(a) Notwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in line of duty in the active military, naval, or air service for purposes of this title on the basis that it resulted from injury or disease attributable in whole or in part to the use of tobacco products by the veteran during the veteran's service.

"(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which became manifest or was aggravated in active military, naval or air service or became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 is amended by adding the following new item after the item relating to section 1102: "1103. Special provisions relating to claims based upon effects of tobacco products."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to claims filed after the date of enactment of this Act.

SEC. 106. REIMBURSEMENT OF COSTS ASSOCIATED WITH COMPENSATION AND PENSION MEDICAL EXAMINATIONS.

(a) AUTHORIZATION.—Chapter 77 of title 38, United States Code, is amended by adding at the end of subchapter I the following new section:

"7705. Reimbursement for compensation and pension medical examinations

"(a) REIMBURSEMENT.—The Under Secretary for Benefits is authorized to reimburse the Veterans Health Administration for costs associated with the conduct of medical examinations requested by the Veterans Benefits Administration in connection with claims for benefits under this title.

"(b) SOURCE OF FUNDS.—Reimbursements under this section shall be made from amounts available to the Secretary of Veterans Affairs for payment of general operating expenses."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 77 is amended by adding the following new item after the item relating to section 7703: "7705.

Reimbursement for compensation and pension medical examinations.”.

TITLE II—MEMORIAL AFFAIRS

SEC. 201. STATE CEMETERY GRANTS PROGRAM.

(a)(1) AMOUNT OF GRANT RELATIVE TO PROJECT COST.—Section 2408(b) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

“(1) The amount of any grant under this section may not exceed—

“(A) in the case of the establishment of a new cemetery, the total of—

“(i) the cost of improvements to be made on the land to be converted into a cemetery, and

“(ii) the initial cost of equipment necessary to operate the cemetery; or

“(B) in the case of the expansion or improvement of an existing cemetery, the total of—

“(i) the cost of improvements to be made on any land to be added to the cemetery, and

“(ii) the cost of any improvements to be made to the existing cemetery.

“(2) If the amount of a grant under this section is less than the amount of costs referred to in paragraph (1), the State receiving the grant shall contribute the amount by which the costs exceed the grant, in addition to any land acquired or dedicated by the State for the cemetery.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall become effective 60 days after the date of enactment of this Act.

(b) AUTHORIZATION OF NO-YEAR APPROPRIATIONS.—Section 2408(d) is amended by striking out “the end of the second fiscal year following the fiscal year for which they are appropriated” and inserting in lieu thereof “expended”.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 9, 1997.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill, the “Veterans’ Compensation Cost-of-Living Adjustment and Benefit programs Improvement Act of 1997,” to authorize a cost-of-living adjustment (COLA) for fiscal year (FY) 1998 in the rates of disability compensation and dependency and indemnity compensation (DIC), and to revise and improve certain veterans compensation, pension, and memorial affairs programs, and for other purposes. I request that this draft bill be referred to the appropriate committee for prompt consideration and enactment.

Section 101 of the draft bill would direct the Secretary of Veterans Affairs to increase administratively the rates of compensation for service-disabled veterans and of DIC for the survivors of veterans whose deaths are service related, effective December 1, 1997. The rate of increase would be the same as the COLA that will be provided under current law to veterans’ pension and Social Security recipients, which is currently estimated to be 2.7 percent. We believe this proposed COLA is necessary and appropriate in order to protect the benefits of these most deserving recipients from the eroding effects of inflation. We estimate that enactment of this section, in conjunction with section 102 of this draft bill, would result in benefit costs of \$330.7 million during FY 1998 and \$1.94 billion over the five-year period beginning in FY 1998. The costs associated with the compensation COLA are considered to be part of the compensation baseline and not subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990.

Section 102 would require the Secretary of Veterans Affairs, in computing new rates of

(or limitations affecting) disability compensation and DIC pursuant to the enactment of any legislation requiring the Secretary to increase such rates to provide a COLA for fiscal year 1998 and thereafter, to round down to the next lower whole dollar any rate that is not evenly divisible by one dollar. This proposal is consistent with the congressionally-mandated calculation methods applied to COLA’s for fiscal years 1994, 1995, and 1996. We estimate this proposal would reduce FY 1998 benefit cost associated with the COLA proposed in section 101 of this draft bill by \$17 million and reduce the five-year benefit cost for FY 1998 through FY 2002 by \$287 million, as compared to the cost of the COLA and future COLAs based on rounding odd dollar amounts to the nearest whole dollar. The savings are subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990.

Section 103 would amend titles 26 and 38 of the United States Code to make permanent the authority of the Department of Veterans Affairs (VA) to access unearned income information from the Internal Revenue Services (IRS) and wage, self-employment, and retirement income information from the Social Security Administration (SSA) for purposes of income verification in determining eligibility for VA means-tested benefits such as pension and medical care for certain non-service-related illnesses or conditions.

Experience has shown that authority to match unearned income information from IRS and wage, self-employment, and retirement income information from SSA with VA data for purposes of income verification in determining eligibility for or the proper amount of VA means-tested benefits has been an effective savings measure and has had a significant program-abuse deterrent effect. We estimate that enactment of this proposal would result in savings in monetary benefits of \$10 million in FY 1999 and \$120 million during the four-year period beginning in FY 1999. These savings are subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990.

Section 104 should amend section 5503(f) of title 38, United States Code, to make permanent the \$90 limitation on monthly VA pension payments that may be made to beneficiaries, without dependents, who are receiving Medicaid-covered nursing-home care. The current payment limitation, which is due to expire at the end of fiscal year 1998, works to the advantage of these nursing-home residents because it permits them to keep the \$90 to apply toward personal expenses rather than have it “pass through” to the Medicaid program. This section would simply remove the existing September 30, 1998, expiration date for section 5503(f). We estimate this proposal would result in government-wide savings because a beneficiary’s nursing-home care costs, previously paid for with VA pension benefits, would be paid for by the Medicaid program, which shares a portion of the costs with the States. Government-wide savings are estimated to be \$206 million in FY 1999 and a total of \$893 million during the four-year period beginning in FY 1999.

Under current law, direct service connection of a disability or death may be established if the evidence establishes that injury or disease resulted from tobacco use in line of duty in the active military, naval, or air service, notwithstanding that the disability or death did not occur until after service and expiration of any applicable presumptive period. Section 105 would amend title 38, United States Code, by adding a new section that would have the effect of prohibiting service connection of a death or disability on the basis that it resulted from injury or disease attributable, in whole or in part, to the use

of tobacco products by the veteran during the veteran’s service. This amendment is consistent with the 1990 budget reconciliation act, in which Congress prohibited compensation for disabilities which are the result of veterans’ abuse of alcohol and drugs. This was fiscally responsible action which enhanced the integrity of our compensation program, and our proposal regarding tobacco use is offered in that same spirit. In addition, claims based upon tobacco-related disorders present medical and legal issues which could impede ongoing efforts to speed claim processing by placing significant additional demands on the adjudicative system. This provision would not preclude establishment of service connection for disability or death from a disease or injury which became manifest or was aggravated during active service or became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of title 38, United States Code. This amendment would apply to claims filed after the date of its enactment.

This provision would result in some level of benefit cost avoidance and avoid potential delays in claim processing resulting from increased workload.

Section 106 would authorize the Veterans Benefits Administration (VBA) to reimburse, from the general operating expenses account, the Veterans Health Administration (VHA) for the cost of medical examinations conducted with respect to veterans’ claims for compensation or pension. Currently, such examinations are paid for out of VA’s medical-care fund.

In order to assure the funding for compensation and pension medical examinations is available throughout FY 1998, appropriate language would need to be included in both the “Medical care” and “General operating expenses” appropriations. It is contemplated that VBA will enter into a memorandum of understanding with VHA to provide that, should funds budgeted under general operating expenses for the purpose of “purchasing” compensation and pension medical examinations prove insufficient, alternate funding under “Medical care” would be available to permit VHA to continue to provide these examinations. Medical care funds would be used for this purpose only in the event of a shortfall in general operating expenses. There are no costs or savings associated with this proposal.

Section 201(a) would amend section 2408(b) of title 38, United States Code, to make state cemetery grants more attractive to States. Section 2408 authorizes the Secretary of Veterans Affairs to make grants to States to assist them in establishing, expanding, or improving State veterans’ cemeteries. Currently, the amount of a State cemetery grant is limited to 50 percent of the total of the value of the land to be acquired or dedicated for a cemetery and the cost of improvement to be made on the land. The remaining amount must be contributed by the State receiving the grant. Pursuant to the amendments proposed in this section, the amount of a State cemetery grant could not exceed, in the case of the establishment of a new cemetery, the total of the cost of improvements to be made on land to be converted into a cemetery and the initial cost of equipment necessary to operate the cemetery. In the case of the expansion or improvement of an existing cemetery, the amount of the grant could not exceed the total of the cost of improvements to be made on any land to be added to the cemetery combined with the cost of improvements to be made to the existing cemetery. If the amount of a grant should, for any reason, be less than the amount of those costs, the State receiving the grant would be required

to contribute the remaining amount, in addition to providing any land necessary for the cemetery project.

Also, under current law, if at the time of a grant the State receiving the grant dedicates for the cemetery land which it already owns, the value of the land may constitute up to 50 percent of the State's contribution. Once that land value is so used, it may not constitute part of the State's contribution for any subsequent grant under section 2408. Under the amendments proposed in section 201(a) of this draft bill, a State would be responsible for providing any land required for a cemetery project, since the grant amount would not longer be based partly on the value of land to be acquired or dedicated for a cemetery.

We believe that excluding the value of land to be acquired for a cemetery from the basis of a grant would encourage states to be active partners in the cemetery grants program. In our experience, no State has acquired land for a cemetery in connection with a grant under section 2408. In every case, the State has dedicated land that was donated or transferred for that purpose, or land that it already owned. Further, any reduction of the basis from which a grant is calculated may be offset by an increase from 50 percent to up to 100 percent in the proportion of the amount of a project's cost that could be assumed by the Federal Government. Moreover, since, under the proposal, a grant may cover the entire cost of improvements (and initial cost of equipment in certain cases), a State may not have to contribute cash toward the initial cost of a project.

Another feature that would make grants more attractive to States is the inclusion in the basis of a grant of the initial cost of equipment necessary to operate the cemetery. Providing funds to acquire the equipment necessary to operate a cemetery will, we believe, be a critical financial incentive to encourage States to establish new cemeteries. Such equipment is as essential to the establishment of an operational cemetery as are the land and the improvements made on it. However, because our proposed amendment includes only the initial cost of equipment for the establishment of a cemetery, the State would retain the responsibility for long-term maintenance and operation of the cemetery, including costs associated with the acquisition of replacement equipment. Each Federal grant would assist in the establishment and activation of new veterans' cemeteries, or in the expansion or improvement of existing cemeteries, but the States would bear the costs of continuing operation and long-term maintenance.

Section 201(b) of the draft bill would authorize "no-year" appropriations for the State cemetery grants program. Under current 38 U.S.C. §2408(d), funds appropriated for State cemetery grants remain available only until the end of the second fiscal year following the fiscal year for which they are appropriated. However, in Public Law No. 104-204, 110 Stat. 2874 (1996), Congress appropriated funds for State cemetery grants, "to remain available until expended." Section 201(b) would amend section 2408(d) to reflect this no-year-funding policy.

The Office of Management and Budget advises that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the Administration's program.

Sincerely yours,

JESSE BROWN.

By Mr. SPECTER (by request):

S. 988. A bill to amend chapter 72 of title 38, United States Code, to reform the retirement provisions relating to

the Court's judicial component, to provide for a staggered judicial retirement option to avoid the large case backlog increase that would arise in the event of simultaneous judicial vacancies, to rename the United States Court of Veterans Appeals as the United States Court of Appeals for Veterans Claims, and for other purposes; to the Committee on Veterans' Affairs.

THE COURT OF VETERANS APPEALS
AMENDMENTS OF 1997

Mr. SPECTER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the chief judge, U.S. Court of Veterans Appeals, S. 988, the proposed Court of Veterans Appeals Amendments of 1997. The chief judge submitted this proposed legislation to me, as chairman of the Committee on Veterans' Affairs, by letter dated June 16, 1997.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—proposed draft legislation referred to the Committee on Veterans' Affairs by the chief judge, Court of Veterans Appeals. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed summary and explanation of the draft legislation which accompanied it.

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

S. 988

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Court of Veterans Appeals Amendments of 1997".

TITLE I—COMPARABILITY

SEC. 101. AUTHORITY TO PRESCRIBE RULES AND REGULATIONS.

Section 7254 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Court shall have the authority to prescribe rules and regulations that are necessary or appropriate to carry out the provisions of subchapters III and V of chapter 72 of this title and that are consistent with such chapter and any other applicable provision of law."

SEC. 102. CALCULATION OF YEARS OF SERVICE AS A JUDGE.

Section 7296(b) of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of calculating the years of service of an individual under this subsection and subsection (c), only those years of service as a judge of the Court shall be credited, and that portion of the aggregate number of years of such service that is a fractional part of 1 year shall not be credited if it is less than 6 months, and shall be credited if it is 6 months or more."

SEC. 103. LIMITATION ON COST-OF-LIVING ADJUSTMENT TO RETIRED PAY.

Section 7296 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of law, cost-of-living adjustments made or accruing to any retired pay that is paid under this section shall not result in such retired pay exceeding the rate of pay in effect under section 7253(e) of this title for a judge performing active service."

SEC. 104. SURVIVOR ANNUITIES.

(a) ELECTION TO PARTICIPATE.—Section 7297(b) of title 38, United States Code, is amended in the first sentence by inserting before the period "or within 6 months after the date on which the judge marries if the judge has retired under section 7296 of this title".

(b) REDUCTION OF CONTRIBUTIONS OF ACTIVE JUDGES.—(1) Section 7297(c) of title 38, United States Code, is amended by striking out "3.5 percent of the judge's pay" and inserting in lieu thereof "2.2 percent of the judge's salary received under section 7253(e) of this title, 3.5 percent of the judge's retired pay received under section 7296 of this title when the judge is not serving in recall status under section 7257 of this title, and 2.2 percent of the judge's retired pay received under such section 7296 when the judge is serving in recall status under such section 7257".

(2) The amendment made by this subsection shall take effect on the first day of the first pay period beginning on or after January 1, 1995.

(c) INTEREST PAYMENTS.—Section 7297(d) of title 38, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

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

"(2) If a judge has previously performed a period of service as a judge, or has performed service as a judicial official as defined under section 376(a)(1) of title 28, a Member of Congress, or a congressional employee, 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 all such service; and

"(B) during which the judge was not receiving retired pay or a retirement annuity based on service as a judge or as a judicial official."

(d) SERVICE ELIGIBILITY.—(1) Section 7297(f) of title 38, United States Code, is amended—

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

(i) by striking out "at least 5 years" and inserting in lieu thereof "at least 18 months"; and

(ii) by striking out "last 5 years" and inserting in lieu thereof "last 18 months"; and

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

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

(2) Section 7297(a) of title 38, United States Code, is amended—

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

(B) by striking "(c)" in paragraph (3);

(C) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(D) by inserting before paragraph (2) (as redesignated by clause (C) of this paragraph) the following new paragraph:

"(1) The term 'assassination' means the killing of a judge that is motivated by the performance by that judge of the judge's official duties."

(3) AGE REQUIREMENT OF SURVIVING SPOUSE.—Section 7297(f)(1)(A) of title 38, United States Code, is further amended by

striking out “or following the surviving spouse’s attainment of the age of 50 years, whichever is later”.

(f) COLA FOR SURVIVORS ANNUITIES.—Section 7297(o) of title 38, United States Code, is amended to read as follows:

“(o) Each survivor annuity payable from the retirement fund shall be increased at the same time as, and by the same percentage by which, annuities payable from the Judicial Survivors’ Annuities Fund are increased pursuant to section 376(m) of title 28.”.

SEC. 105. EXEMPTION OF RETIREMENT FUND FROM SEQUESTRATION ORDERS

Section 7298 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(g) For purpose of section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. §905(g)(1)(B)), the retirement fund shall be treated in the same manner as the Court of Federal Claims Judges’ Retirement Fund.”.

SEC. 106. LIMITATION ON ACTIVITIES OF RETIRED JUDGES.

(a) IN GENERAL.—Chapter 72 of title 38, United States Code (as amended by this Act), is further amended by adding at the end thereof the following new section:

“§7299. Limitation on activities of retired judges

“Any 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 who thereafter in the practice of law represents (or supervises or directs the representation of) a client in making any civil claim relating to veterans’ benefits against the United States or any agency thereof shall forfeit all rights to retired pay under such provisions for any period during which the judge engages in any such activity and for one year immediately following the cessation of such activity.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 72 of title 38, United States Code, is amended by adding at the end thereof the following:

“7299. Limitation on activities of retired judges.”.

TITLE II—STAGGERED RETIREMENT AND RECALL PROVISIONS

SEC. 201. STAGGERED RETIREMENT.

(A) ELIGIBILITY.—One individual each year shall be eligible to retire under this section starting in the year 1999 and ending in the year 2003. An individual is eligible to retire under this section, if the individual, at the time of retirement,

(1) is an associate judge of the United States Court of Appeals for Veterans Claims (as renamed by Title III of this Act) who 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 allowable under section 7297(j) of such title;

(4) is at least fifty-five years of age;

(5) has years of age, years of service creditable under section 7296 of such title, and years of service allowable under section 7297(j) of such title not creditable under section 7296 of such title, that total at least 80; and

(6) has the greatest seniority as a judge of the United States Court of Appeals for Veterans Claims (as renamed by Title III of this Act) of the judges who provide notification in accordance with subsection (b).

(b) NOTIFICATION.—A judge who desires to retire under subsection (c) shall provide the President of the United States and the chief judge of the United States Court of Appeals for Veterans Claims (as renamed by Title III of this Act) with written notification to that

effect not later than April 1 of any year specified in subsection (a). Such notification shall specify the retirement date in accordance with subsection (c). Notification provided under this subsection shall be irrevocable.

(c) RETIREMENT.—A judge who is eligible to retire under subsection (a) shall retire during the fiscal year in which notification is provided pursuant to subsection (b), but, in no event, earlier than 90 days after such notification is provided. Notwithstanding any other provision of law, such judge shall be deemed, for all purposes, to be retiring under section 7296(b)(1) of title 38, United States Code, except that, the rate of retired pay for a judge retiring under this section shall, on the date of such judge’s separation from service, be equal to the rate described in section 7296(c)(1) of such title multiplied by the percentage represented by the fraction in which the numerator is the sum of the number represented by years of service as a judge of the United States Court of Appeals for Veterans Claims (as renamed by Title III of this Act) creditable under section 7296 of such title and the age of such judge, and the denominator is 80.

(d) DUTY OF ACTUARY.—Section 7298(e)(2) of title 38, United States Code, is amended—

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

(2) by adding the following new subparagraph:

“(C) For purposes of subparagraph (B) of this paragraph, notwithstanding any other provision of law, ‘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.”

SEC. 202. RECALL OF RETIRED JUDGES.

(a) IN GENERAL.—Chapter 72 of title 38, United States Code (as amended by section 102 of this Act), is further amended by inserting after section 7256 the following new section:

“§7257. Recall of retired judges of the Court of Appeals for Veterans Claims

“(a) A judge of the United States Court of Appeals for Veterans Claims who has retired from the Court under the provisions of section 7296 of this title or the provisions of chapter 83 or 84 of title 5 shall be eligible for recall upon providing the chief judge of the Court of Appeals for Veterans Claims with written notification to that effect. In the event of a vacancy in the position of associate judge of the Court or otherwise as necessary to meet anticipated case workload, the chief judge may recall such a judge upon written certification by the chief judge that substantial service is expected to be performed by the eligible judge for such period as determined by the chief judge to be necessary to meet the needs of the Court, and to which certification the eligible judge agrees in writing.

“(b) A judge recalled under this section may exercise all of the powers and duties of the office of a judge in active service.

“(c) A judge recalled under this section shall be paid pay, during the period for which the judge serves in recall status, at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount the judge is paid in retired pay under section 7296 of this title or an annuity under the applicable provisions in chapter 83 or 84 of title 5.

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

“(e) Nothing in this section shall affect the right of a judge who retired under the provi-

sions of chapter 83 or 84 of title 5 to serve otherwise as a reemployed annuitant in accordance with the provisions of title 5.”

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 72 of title 38, United States Code (as amended by section 106(b) of this Act), is further amended by inserting after the item relating to section 7256 the following:

“7257. Recall of retired judges of the Court of Veterans Appeals.”.

TITLE III—RENAMING PROVISIONS

SEC. 300. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in section 301 an amendment or repeal is expressed in terms of an amendment, 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. 301. RENAMING OF THE COURT OF VETERANS APPEALS.

(a) IN GENERAL.—(1) The United States Court of Veterans Appeals shall hereafter be known and designated as the United States Court of Appeals for Veterans Claims.

(2) Section 7251 is amended by striking out “United States Court of Veterans Appeals” and inserting in lieu thereof “United States Court of Appeals for Veterans Claims”.

(b) CONFORMING AMENDMENTS.—

(1) The following sections are amended by striking out “Court of Veterans Appeals” each place it appears and inserting in lieu thereof “Court of Appeals for Veterans Claims”: sections 5904, 7101(b), 7252(a), 7253, 7254, 7255, 7256, 7261, 7262, 7263, 7264, 7266(a)(1), 7267(a), 7268(a), 7269, 7281(a), 7282(a), 7283, 7284, 7285(a), 7286, 7291, 7292, 7296, 7297, and 7298.

(2)(A)(i) The heading of section 7286 is amended to read as follows:

“§7286. Judicial Conference of the Court of Appeals for Veterans Claims”.

(ii) The item relating to section 7286 in the table of sections at the beginning of chapter 72 (as amended by sections 106(b) and 202(b) of this Act) is further amended to read as follows:

“7286. Judicial Conference of the Court of Appeals for Veterans Claims.”.

(B)(i) The heading of section 7291 is amended to read as follows:

“§7291. Date when Court of Appeals for Veterans Claims decision becomes final”.

(ii) The item relating to section 7291 in the table of sections at the beginning of chapter 72 (as amended by sections 106(b), 202(b), and subsection (b)(2)(A)(ii) of this section) is further amended to read as follows:

“7291. Date when Court of Appeals for Veterans Claims decision becomes final.”.

(C)(i) The heading of section 7298 is amended to read as follows:

“§7298. Court of Appeals for Veterans Claims Retirement Fund”.

(ii) The item relating to section 7298 in the table of sections at the beginning of chapter 72 (as amended by sections 106(b), 202(b), and subsection (b)(2)(A)(ii) and (B)(ii) of this section) is further amended to read as follows:

“7298. Court of Appeals for Veterans Claims Retirement Fund.”.

(3) The item relating to chapter 72 in the table of chapters at the beginning of title 38 and the item relating to such chapter in the table of chapters at the beginning of part V are amended to read as follows:

“72. United States Court of Appeals for Veterans Claims 7251.”

(c) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) The following provisions of law are amended by striking out "Court of Veterans Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for Veterans Claims":

(A) Section 8440d of title 5, United States Code.

(B) Section 2412 of title 28, United States Code.

(C) Section 906 of title 44, United States Code.

(D) Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(2)(A) The heading of section 8440d of title 5, United States Code, is amended to read as follows:

"§8440d. Judges of the United States Court of Appeals for Veterans Claims".

(B) The item relating to such section in the table of sections at the beginning of chapter 84 of such title is amended to read as follows:

"8440d. Judges of the United States Court of Appeals for Veterans Claims."

(d) OTHER LEGAL REFERENCES.—Any reference in a law, regulation, document, paper, or other record of the United States to the United States Court of Veterans Appeals shall be deemed to be a reference to the United States Court of Appeals for Veterans Claims.

SUMMARY AND EXPLANATION OF COURT OF VETERANS APPEALS AMENDMENTS OF 1997

Section 1: Short title

Summary: Section 1 would provide that the short title of the proposed legislation [hereinafter "the Proposal"] is the "Court of Veterans Appeals Amendments of 1997".

Explanation: Self-explanatory.

TITLE I—COMPARABILITY

Title I contains provisions designed to provide comparability in a number of respects between the retirement/survivor program applicable to judges of the U.S. Court of Veterans Appeals (to be renamed by section 301 of the Proposal as the U.S. Court of Appeals for Veterans Claims) [hereinafter "this Court" or "the Court"] and the program applicable to judges of other Article I courts. The explanation that follows each section in this title sets forth the comparable provisions that form the basis for the provision in the Proposal. Full comparability is not being proposed with other federal courts because the Court is not requesting elimination of the judge's contribution for participation in the Court retirement program.

Section-by-Section Analysis

Section 101: Authority to prescribe rules and regulations

Summary: Section 101 would provide to the Court the express authority to prescribe rules and regulations necessary or appropriate to carry out the provisions of subchapters III and V of chapter 72 of title 38, pertaining to the Court's administration and retirement/survivor system. Any rules and regulations prescribed would be required to be consistent with chapter 72 and all other applicable provisions of law.

Explanation: The Director of the Administrative Office of the United States Courts (Director) has express authority, subject to the supervision of the Judicial Conference of the United States, to regulate a wide range of activities that pertain to Article III, U.S. Court of Federal Claims (Claims), and U.S. Bankruptcy and Magistrate (B&M) Judges.¹ The Judicial Conference of the United States also has express authority to promulgate rules and regulations.² The U.S. Court of Appeals for the Armed Forces, formerly the

U.S. Court of Military Appeals (COMA) [hereinafter so referenced to coordinate with references to "COMA" in Dennis W. Snook & Jennifer A. Neisner, Congressional Research Service Report for Congress, Income Protection for Judges of Selected Federal Courts, dated December 29, 1993, (CRS Report)] is located for administrative purposes in the Department of Defense.³ Unlike these courts, this Court is a freestanding court in the judicial branch that is independently responsible for its own administration but that presently has no express statutory authority to prescribe rules and regulations.

Section 102: Calculation of years of service as a judge

Summary: Section 102 would provide that a fractional year of judicial service of less than 6 months would not be credited toward judicial service and that a fractional year of 6 months or more of judicial service would be calculated as a full year of service.

Explanation: This proposal would bring this Court's Judges in lien with Claims and U.S. Tax Court (Tax) Judges and is similar to how fractional years are credited for COMA Judges.⁴

Section 103: Limitation on cost-of-living adjustment to retired pay

Summary: Section 103 would provide for a cap on a cost-of-living adjustment (COLA) to this Court's judicial retired pay so that it may not exceed active pay.

Explanation: Article III and Article I Judges who have retired, as well as other federal retirees, have provisions for post-retirement increases in their annuities.⁵ The B & M provision is the only existing provision that specifically prohibits an adjusted annuity from exceeding active pay. Section 103 adopts this restriction.⁶ Although section 103 would permit COLA to accrue, the accrued COLA could not be paid unless the level of active pay permitted it.⁷

Section 104: Survivor annuities

Summary: Section 104 would revise this Court's survivor annuity system to incorporate certain provisions applicable under the Joint Survivors' Annuity System (JSAS), the system applicable to Article III, Claims, and B & M Judges, as follows:

a. Expand the period to elect participation while in office (38 U.S.C. §7297(b)) to permit a retired judge who marries to elect participation within 6 months after marriage, as provided for by JSAS.⁸

b. Reduce, effective the first day of the first pay period beginning on or after January 1, 1995, the contributions of judges in active service and on recall from 3.5 percent (38 U.S.C. §7297(c)) to 2.2 percent of salary and retired pay, respectively, the JSAS levels.⁹

c. Exclude from the 3-percent per annum interest payment requirement (38 U.S.C. §7297(d)) any period during which a judge was separated from certain previous service (as a judge, a judicial official under section 376(a)(1) of title 28, a Member of Congress, or a congressional employee) and was not receiving a retirement annuity based on service as a judge or judicial official, since such interest payment is not required by JSAS.¹⁰

d. Reduce the minimum period of civilian service needed for purposes of eligibility for a survivor annuity from 5 years (38 U.S.C. §7297(f)(1), (h)(1)) to 18 months,¹¹ and provide for an exemption from the 18-month requirement where the judge has been assassinated,¹² both as provided for in JSAS.

e. Eliminate the requirement that the surviving spouse be at least 50 years of age in order to receive a survivor annuity (38 U.S.C. §7297(f)(1)(A)) since no minimum age is provided for in JSAS.¹³

f. Substitute the same COLA as provided under JSAS for the COLA presently in place

(38 U.S.C. §7297(o) provides for a fractional COLA only when the cost of living rises by 5 percent or more in any 1 year).¹⁴

Explanation: These changes would bring the supervisors' annuity program for this Court into line with that for Article III, Claims, and B&M Judges, all of whom are covered by JSAS.

Section 105: Gramm-Rudman exemption

Summary: Section 105 would exempt this Court's Retirement Fund from possible Gramm-Rudman sequestration.

Explanation: This proposal would bring this Court's judicial retirement program into line with the retirement programs for Article III, Claims, Tax, COMA, and B&M Judges.¹⁵

Section 106: Limitation on activities or retired judges

Summary: Section 106 would provide that a Judge retired from this Court would forfeit that judge's retirement annuity, upon practicing law involving representation of any client in a federal claim for veterans' benefits, during the period in which the judge engages in the proscribed activity and for one year immediately following the cessation of such activity.

Explanation: Claims, Tax, and B&M Judges who have retired from active service are subject to statutory provisions that significantly restrict such judges from the practice of law in the representation of clients in the subject areas that came before their respective courts.¹⁶ In addition to the proposed section 106, this Court's judges in active service are presently subject to the Code of Conduct for United States Judges¹⁷ and, upon enactment of section 202, also will be subject to that Code under certain circumstances during retirement, including when in recall status. The Code of Conduct imposes prohibitions and restrictions on the activities of judges subject to that Code beyond those imposed by statute.

TITLE II—STAGGERED RETIREMENT AND RECALL

Title II contains a provision to address the looming problem of having as many as four simultaneous associate judgeship vacancies on the Court in 2005 by creating a staggered retirement option designed to encourage the sequencing of associate judge retirements starting in 1999. It also contains a provision to provide for recall of retired judges in the event of judicial vacancies or increased workload.

Section 201: Staggered retirement

Summary: Section 201 would provide a mechanism, in a transitional provision, to permit the early retirement of one associate judge per year starting in the year 1999 and ending in the year 2003. In order to be eligible, each retiring judge would need at least ten years of service on this Court; be a participant in this Court's retirement system; have at least 20 years of federal service allowable under 38 U.S.C. §7297(j); be at least 55 years of age; have years of age, years of service creditable under 38 U.S.C. §7296, and years of service allowable under 38 U.S.C. §7297(l) not creditable under section 7296, that total at least 80; and have the greatest seniority as a judge of this Court among this Court's judges who provide notification of intent to seek early retirement in the fiscal year in question. (The combination of 10 years of service on this Court and the ending year of 2003 would restrict this provision's availability to the Court's original associate judges.) Written notification will be provided to the President and Chief Judge not later than April 1 of years 1999 through 2003, specifying a retirement date not earlier than 90 days thereafter nor later than the end (September 30) of the fiscal year in which notification is provided. Notification shall be irrevocable once provided. Retired pay of an

¹Footnotes at end of article.

early retiring judge will be based upon a modified rule of 80 in which the rate described in 38 U.S.C. § 7296(c)(1) is reduced proportionally in accordance with the extent to which the retiring judge's combined years of service as a CVA judge and age do not reach 80.

Section 201 would further provide that 38 U.S.C. § 7298(e)(2), which can presently be used with respect to funding actuarially determined present value of all benefits payable from the Court's Retirement Fund, be amended to permit the Court to use that provision also with respect to benefits that may be paid from the Retirement Fund within the contemplation of existing law.

Explanation: Section 201 would provide a mechanism to deal with a serious problem of judge turnover, the magnitude of which the Court has not previously appreciated. The Court was created in 1988 without any antecedent structure and with no judges in place (Veterans' Judicial Review Act, Pub. L. 100-687, Div. A., 102 Stat. 4105 (Nov. 18, 1988)). All 6 of the Court's original associate judges assumed office within a period of approximately 1 year of each other. The 15-year terms of the court's remaining 5 original associate judges will expire within a period of approximately 1 year of each other. Even assuming the application of the Rule of 80 under 38 U.S.C. § 7296(b)(1) (and assuming no reappointments under 38 U.S.C. § 7296(2)), 4 of 5 of the court's original associate judges will retire within 11 months of each other, beginning in September 2004 (two in September 2004, one in January 2005, and one in August 2005; the fifth associate judge would be eligible for retirement under the Rule of 80 in November 2002).

Given the length of time likely to be involved in the nomination and confirmation process, especially considering the election of a President in November 2004, 3 of the Court's judgeships are very likely to be simultaneously vacant during a substantial part of 2005, and it is quite possible that a majority of the judgeships could be simultaneously vacant during part of that year and possibly thereafter. Then, even after the judgeships are filled, there could well be considerable lack of experience among the majority of the Court's judges. This situation would almost certainly dramatically increase the Court's backlog—initially during the vacancies and continuing during the startup period for the replacement judges. As well, during the vacancy period the Court could be in a situation where two or three judges might be able to overrule prior Court precedent.

In order to preclude such problems, section 201 creates a staggered-retirement option designed to encourage the sequencing of associate judge retirements starting in 1999. It is important to bear in mind when considering the staggered-retirement provision that the formula for an early-retirement annuity must provide sufficient financial incentive for an associate judge to elect to forego the full retirement benefit that would be available upon completion of the 15-year term or satisfaction of the Rule of 80. There is no sense whatsoever in legislating a formula that will not produce the early retirements that are essential to avoid the serious adverse consequences that would result for the Court from having 3-4 simultaneous judicial vacancies in 2005 and possibly beyond.

Implementation of section 201 may be achievable without seeking additional appropriations for this purpose. In this regard, subsection (d)(2) of the proposed section 201 would add a subparagraph (C) to permit the Court to utilize 38 U.S.C. § 7298(2)(A) in anticipation of a payment that may have to be made from the Court's Retirement Fund. It should be noted that, even absent staggered

retirement, the proposed subparagraph (C) would allow the Court to provide for much better management of a judge's anticipated entry, under 38 U.S.C. § 7296(d)(1)(A), into the Court's retirement system.

Precedent exists in 3 other Article I courts for fractional retirement based on completion of less than a full statutory term of service. In 2 of these 3 courts, as described below, the fractional retirement annuity may be enhanced by either a CSRS/Federal Employees Retirement System (FERS) annuity or by an additional component of court retirement calculated under CSRS, respectively.

When COMA was enlarged in 1989 from 3 to 5 active judges, one of the new judgeships was for a term of 13 years and the other for a term of 7 years.¹⁸ The COMA Judges appointed to 7- and 13-year terms are eligible, upon completion of those terms, for immediate special annuities calculated by multiplying the last salary prior to retirement by a fraction based on a numerator of years of service and a denominator of 15.¹⁹

B & M Judges who have served at least 8 years are each entitled to a Judicial Retirement System (JRS) annuity, upon reaching age 65, calculated by multiplying the last salary prior to retirement by a fraction based on a numerator of years of service and a denominator of 14 (the number of years of a full term). This annuity is reduced by 2 percent for each year the annuitant was under age 65 at the time the annuitant left office not to exceed a 20-percent reduction.²⁰ The reduction is not applicable if a B & M Judge fails to be reappointed after serving a full term.²¹ An alternative hybrid JRS annuity is available, in a transitional provision, to each full-time B & M Judge who was in office on November 15, 1988, regardless of the number of years of judicial service, calculated in the same manner as a regular IRS annuity for those years of judicial service designated by such judge for the period on or after October 1, 1979, plus a CSRS or FERS annuity for federal service prior to the designation.²²

District of Columbia courts (D.C.) Judges are eligible for retirement upon completion of 10 years of judicial service, with retirement salary beginning at age 50, if they have 20 or more years of judicial service, or at age 60 if they have less than 20 years of such service, or at a reduced salary if they are between ages 55 and 60.²³ The retirement salary is the amount determined by multiplying the last judicial salary by that fraction where the numerator is total years of judicial service and the denominator is 30.²⁴ Provision is also made for an add-on to retirement salary, based on qualifying federal civilian and military service, generally computed on the basis of CSRS law. Two unique features of the add-on are that the deposit by the retiring judge in the D.C. Judges' Retirement Fund²⁵ is 3.5 percent of the salary earned for civilian service plus interest and that average pay for purposes of CSRS service is the last pre-retirement salary of the judge.²⁶ The total retirement salary, upon retirement, may not exceed 80 percent of the last judicial salary.²⁷ A judge who retires between ages 55 and 60 who has less than 20 years of judicial service and elects a reduced retirement salary shall have that salary reduced by 1/12th of 1 percent for each month the judge is under the age of 60 at the time of retirement.²⁸ In the case of a judge described in the preceding sentence whose calculation of retirement salary benefits, based on both fractional judicial service and CSRS law, results in an amount exceeding the 80% cap, the reduction based on age will be made to such calculation to the extent of the difference between such calculation and such cap.

In addition to the fractional retirement provisions noted above with respect to COMA, B & M, and D.C. Judges, there are a number of other provisions that permit full retirement where less than a full judicial term has been completed. A disabled Article III Judge, Claims Judge, or Tax Judge, with 10 years of judicial service on such judge's court, is entitled to the salary of an active judge.²⁹ A disabled Judge on this Court with 10 years of judicial service is entitled to the retired pay that he or she would have received had he or she completed his or her term.³⁰ In certain cases involving misconduct or disability, length-of-service requirements can be waived for Article III, Claims, and this Court's Judges.³¹

Finally, three other provisions should be noted. Claims and B & M Judges may retire under CSRS at age 60 with 10 years of judicial service. COMA Judges may retire under CSRS at any time without regard to age-and-service requirements, with a reduction in the annuity of a judge retiring under age 60. Retired Article III Judges are permitted separate annuities, without offset, one for judicial service, and one for nonjudicial service that qualifies for a CSRS/FERS annuity.³²

Section 202: Recall of retired judges

Summary: Section 202 would provide that a retired judge of the Court would be eligible for recall, by providing the chief judge with written notification to that effect. Recall of such a judge, in the event of judicial vacancy or otherwise to meet case workload, would occur when the chief judge certifies that substantial service is expected to be performed by such retired judge, for such period as the chief judge determines to be necessary, and such retired judge agrees to such certification. During the period of recall service, the retired judge would receive, in addition to the judge's retired pay, the difference between that pay and pay of an active judge of the Court.

Explanation: All Article III and Article I Judges, except B & M and this Court's Judges, have specific provision for both senior status and post retirement judicial service.³³ B & M Judges have specific provision for postretirement judicial service.³⁴ Only this Court's Judges have no specific provision for either.

Article III, Claims, Tax, and COMA Judges automatically receive senior status upon retirement, and D.C. Judges may be appointed to such status subsequent to retirement and upon favorable recommendation of the District of Columbia Commission on Judicial Disabilities and Tenure.³⁵ Retired Article III Judges who perform the equivalent of the average 2-month workload of an active judge, and retired Claims and Tax Judges who make themselves available for work not to exceed 90 days per year receive pay of the office.³⁶ Those retired Article III Judges who perform service only upon their consent, and all retired COMA and B & M Judges, who may be recalled only upon their consent, receive their respective retirement annuities plus a cost-of-living adjustment (COLA).³⁷

Retired senior D.C. Judges may be recalled only upon their consent.³⁸ Both retired senior and nonsenior D.C. Judges receive their annuities plus COLA.³⁹ Recalled COMA Judges receive pay of the office in lieu of retirement annuities.⁴⁰ Recalled B & M Judges and D.C. Judges receive, in addition to retirement annuities, an amount equal to the difference between annuity and pay of the office.⁴¹

As is the case with B & M Judges, section 202 would provide only for recall service, but would not provide for senior status. The latter generally involves substantially higher costs for judicial pay, space for chambers, and support staff.

TITLE III—RENAMING PROVISION

Section 301: Renaming of the Court of Veterans Appeals

Summary: Section 301 renames the United States Court of Veterans Appeals as the United States Court of Appeals for Veterans Claims.

Explanation: Section 301 is virtually identical to section 201 of H.R. 1092, 105th Cong., 1st Sess., which was passed by the House on April 16, 1997, and provides for the renaming of the Court. House Report No. 105-97, which accompanied the House-passed bill, states on page 3:

The bill would amend section 7251 of title 38, United States Code, to rename the United States Court of Veterans Appeals ("the Court") as the United States Court of Appeals for Veterans Claims. According to Chief Judge Frank Q. Nebeker, many veterans and attorneys believe that the Court is an administrative tribunal of the Department of Veterans Affairs rather than an independent judicial entity.

Moreover, the Court's common acronym "CVA" is not readily distinguishable from "BVA", and acronym for the Board of Veterans' Appeals which is an administrative tribunal of the Department of Veterans Affairs. Adoption of the name "United States Court of Appeals for Veterans Claims" would also be consistent with recent name changes in other courts established by Congress under Article I of the United States Constitution. In 1994, the United States Court of Military Appeals was renamed the United States Court of Appeals for the Armed Forces. In 1992, the United States Court of Claims was renamed the United States Court of Federal Claims.

FOOTNOTES

- ¹ See 28 U.S.C. § 604.
- ² See, e.g., *infra* note 41.
- ³ See 10 U.S.C. § 941.
- ⁴ For Claims Judges, see 28 U.S.C. § 178(g); see also *Pub. L. No. 101-650, § 306(a)(1), 104 Stat. 5107; for Tax Judges, see 26 U.S.C. § 7447(d)(2)(B); for COMA Judges, see 10 U.S.C. § 942(b)(2); see also National Defense Authorization Act for Fiscal Years 1990 and 1991, *Pub. L. 101-189, § 1301(c), (g), 103 Stat. 1352, 1570, 1575-76 (Nov. 29, 1989). [Note: Starred references (*) were enacted in the same year as, or subsequent to, enactment of the Veterans' Judicial Review Act, Pub. L. No. 100-687, Div. A., 102 Stat. 4105 (1988).]
- ⁵ For CSRS/FERS retirees, see 5 U.S.C. §§ 8340, 8462; for Article III Judges, see CRS Report at 17; 28 U.S.C. § 371(b); for Claims Judges, see CRS Report at 17; 28 U.S.C. § 178(a), (b); see also *Pub. L. 101-650, § 306, 104 Stat. at 5105-12; for Tax Judges, see CRS Report at 17; 26 U.S.C. § 7447(d)(1); for COMA Judges, see CRS Report at 17; 10 U.S.C. § 945(e); see also *Pub. L. No. 101-189, § 1301(c), 103 Stat. at 1577; for B & M Judges, see CRS Report at 8, 17; Memorandum, CVA Committee on Legislative Matters, Nov. 14, 1994, item 6; 28 U.S.C. § 377(e); see also Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, *Pub. L. No. 100-659, § 2(a), 102 Stat. 3910, 3911 (Nov. 15, 1988); for D.C. Judges, see 11 D.C. Code Ann. § 1571(a)(1981).
- ⁶ *Ibid.*
- ⁷ *Ibid.*
- ⁸ For JSAS, see CRS Report at 22; 28 U.S.C. § 376(a)(1)(ii); for Claims Judges, see also *Pub. L. No. 101-650, § 306(b), 104 Stat. at 5109-10; for B & M Judges, see also *Pub. L. No. 100-659, § 3(a), 102 Stat. at 3917-18.
- ⁹ For JSAS, see 28 U.S.C. § 376(b)(1); see also *Pub. L. No. 102-572, § 201(b), 106 Stat. at 4508-09.
- ¹⁰ For JSAS, see 28 U.S.C. § 376(d); for Claims Judges, see also *Pub. L. No. 101-650, § 306(b), 104 Stat. at 5109-10; for B & M Judges, see also *Pub. L. No. 100-659, § 3(a), 102 Stat. at 3917-3918.
- ¹¹ For JSAS, see CRS Report at 12; 28 U.S.C. § 376(o)(1)(A), (B); for Claims Judges, see also *Pub. L. No. 101-650, § 306(b), 104 Stat. at 5109-10; for B & M Judges, see also *Pub. L. No. 100-659, § 3(a), 102 Stat. at 3917-18.
- ¹² For JSAS, see 28 U.S.C. § 376(o)(2); see also *Pub. L. No. 101-650, § 322(e)(4), 104 Stat. 5119.
- ¹³ For JSAS, see CRS Report at 12; 28 U.S.C. § 376(h)(1)(i); for Claims Judges, see also *Pub. L. No. 101-650, § 306(b), 104 Stat. at 5109-10; for B & M Judges, see also *Pub. L. No. 100-659, § 3(a), 102 Stat. at 3917-18.

¹⁴ For JSAS, see CRS Report at 12, 26; 28 U.S.C. § 376(m); see also Judicial Improvements and Access to Justice Act, *Pub. L. No. 100-702, § 1017(a), 102 Stat. 4642, 4670 (Nov. 19, 1988).

¹⁵ For Article III, Claims, Tax, COMA, and B & M Judges, see 2 U.S.C. § 905(g)(1)(B); for Claims and B & M Judges, see also Federal Courts Administration Act of 1992, *Pub. L. No. 102-572, § 601(a), 106 Stat. 4506, 4514 (Oct. 29, 1992).

¹⁶ For Claims Judges, see CRS Report at 20; 28 U.S.C. § 178(j)(1), (4); see also *Pub. L. No. 101-650, § 306(a), 104 Stat. at 5107; for Tax Judges, see CRS Report at 20; 26 U.S.C. § 7447(f)(2), (4); for B & M Judges, see CRS Report at 20; 28 U.S.C. § 377(m)(1); see also *Pub. L. No. 100-659, § 2, 102 Stat. at 3913.

¹⁷ See Guide to Judiciary Policies and Procedures, vol. 2, ch. 1, I-46, § C (1994).

¹⁸ See *Pub. L. No. 101-189, § 1301(d), 103 Stat. at 1574 (found at 10 U.S.C. § 942 note).

¹⁹ See *Pub. L. No. 101-189, § 1301(e)(3), 103 Stat. at 1575 (found at 10 U.S.C. § 942 note).

²⁰ See CRS Report at 16; 28 U.S.C. § 377(c); see also *Pub. L. No. 100-659, § 2(a), 102 Stat. at 3910-11.

²¹ See CRS Report at 16; 28 U.S.C. § 377(b); see also *Pub. L. No. 100-659, § 2(a), 102 Stat. at 3910.

²² See CRS Report at 7, *Eligibility and Choices*; see also *Pub. L. No. 100-59, § 2(c)(1), 102 Stat. at 3916-17.

²³ See 11 D.C. Code Ann. § 1562 (1981). D.C. Judges have a term of 15 years. See 11 D.C. Code Ann. § 1502 (1981).

²⁴ See 11 D.C. Code Ann. § 1564(a) (1981).

²⁵ See 11 D.C. Code Ann. § 1564(c), (d)(1) (1981).

²⁶ See 11 D.C. Code Ann. § 1564(c) (1981).

²⁷ See 11 D.C. Code Ann. § 1564(a) (1981).

²⁸ *Ibid.*

²⁹ For disabled Article III, Claims, and Tax Judges, see CRS Report at 20; 28 U.S.C. § 178(c)(2) (Article III); 28 U.S.C. § 372(a) (Claims); 26 U.S.C. § 7447(d)(2)(A) (Tax); for Claims Judges, see also *Pub. L. No. 101-650, § 306(a)(1), 104 Stat. at 5105-09.

³⁰ See CRS Report at 11, 38 U.S.C. § 7296(b)(3), (c)(2).

³¹ For Article III Judges, see 28 U.S.C. § 372(c)(6)(B)(iii); for Claims Judges, see 28 U.S.C. § 372(c)(18); for CVA Judges, see 38 U.S.C. § 7253(g)(1).

³² For Claims and B&M Judges, see CRS Report at 9, *Special Early Retirement*; 5 U.S.C. § 8336(k); see also *Pub. L. 101-650, § 306(c)(3), 104 Stat. at 5110; for COMA Judges, see CRS Report at 11, *Special Early Retirement*; 5 U.S.C. § 8336(b); for Article III Judges, see CRS Report at 6, *Contributions*; 28 U.S.C. § 371.

³³ For Article III and Article I Judges, see CRS Report at 16-17, 19; 11 D.C. Code Ann. § 1504(a), (b); for Claims Judges, see also *Pub. L. No. 101-650, § 306(a), 104 Stat. at 5106.

³⁴ See CRS Report at 19; 28 U.S.C. § 155(b), 375(b), 636(h); see also *Pub. L. No. 100-659, § 4, 102 Stat. at 3918.

³⁵ For Article III, Claims, Tax, and COMA Judges, see CRS Report at 16, 17, 19; for Claims Judges, see also *Pub. L. No. 100-659, § 4, 102 Stat. at 3918; for D.C. Judges, see 11 D.C. Code Ann. § 1504 (1981).

³⁶ For Article III, Claims, and Tax Judges, see CRS Report at 17, 19; for Claims Judges, see also *Pub. L. No. 101-650, § 306(a), 104 Stat. at 5106.

³⁷ See *infra* note 41.

³⁸ See 11 D.C. Code Ann. § 1504(a)(1) (1981).

³⁹ See 11 D.C. Code § 1571.

⁴⁰ See CRS Report at 19; 10 U.S.C. § 942(e)(1), (2).

⁴¹ For B & M Judges, see CRS Report at 19; 28 U.S.C. § 155(b) (generic recall for Bankruptcy Judges); Regulations of the Judicial Conference of the United States Governing the Recall of Retired Bankruptcy Judges, sec. 5, Period of Service (1987) (appearing in Administrative Office of the U.S. Courts, Retirement Benefits for Bankruptcy Judges and Magistrate Judges (1995) [hereinafter B & M Retirement Benefits], App. E) (providing for 1-year renewable recall terms); *Regulations of the Judicial Conference of the United States Governing the Extended Recall Service of Retired Bankruptcy Judges, sec. 7, Period of Service (1987) (appearing in B & M Retirement Benefits, App. F) (providing for 3-year renewable recall terms); 28 U.S.C. § 636(h) (generic recall for Magistrate Judges); Regulations of the Judicial Conference of the United States Establishing Standards and Procedures for the Recall of United States Magistrate Judges, sec. 5, Period of Service (1987) (appearing in B & M Retirement Benefits App. D) (providing for 1-year renewable recall terms); see CRS Report at 19; 28 U.S.C. § 375(a)(1) (providing for 5-year renewable recall terms for B & M Judges); not implemented by regulation (B & M Retirement Benefits, sec. 8.a.); for D.C. Judges, see 11 D.C. Code Ann. § 1565 (1981); for B & M Judges, see also *Pub. L. No. 101-659, § 4, 102 Stat. at 3918.

U.S. COURT OF VETERANS APPEALS,

Washington, DC, June 16, 1997.

Hon. ARLEN SPECTER,

Chairman, Committee on Veterans' Affairs, 412 Senate Russell Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to submit to you a legislative proposal that replaces the one I sent you in June 1996. As I indicated in my letter of February 4, 1997, the Court had experienced a substantial change in case filings for the prior 10 months. With a monthly average of new case filings of over 160 during the past year, I am convinced that the downsizing proposal transmitted last June is no longer advisable.

For the reasons stated in my February 4, 1997, letter, and as set forth in my budget testimony in the last several months, the Court now anticipates that case filings in fiscal year 1997 will be over 1900—a figure that could increase further if the Board of Veterans' Appeals continues to increase its output of final, appealable decisions. Moreover, the workload in each of the judge's chambers will increase if the long delays in case processing, due to numerous filing extensions granted to the Secretary, occasioned by the staffing difficulties in Group VII of the Department's General Counsel's office, are reduced; this matter has recently received considerable attention by the Court and the General Counsel herself. In that regard, I am enclosing an April 8, 1997, letter (with attachment) to me from the General Counsel that addresses this problem.

Against this background of a substantial caseload increase, I am submitting a new, single legislative proposal that incorporates as Title I the provisions of Title II from last year's proposal. These provisions are designed to provide comparability in a number of respects between the retirement/survivor annuity programs available for this Court's judges and those applicable to judges of other Article I Courts. Enactment of section 104 will be of particular benefit to the widow of Judge Hart Mankin, who died last year, because section 104 would rectify the disparity between her survivor annuity and the annuities of survivors of deceased Article I Judges under the Joint Survivors' Annuity System.

The Court's new legislative proposal adds a new Title II to deal with a serious problem of judge turnover, the magnitude of which the Court had not previously appreciated. As I indicated in my February 4, 1997, letter, the Court was created in 1988 without any antecedent structure and with no judges in place (Veterans' Judicial Review Act, Pub. L. No. 100-687, Div. A., 102 Stat. 4105 (Nov. 18, 1988)). All 6 of the Court's original associate judges assumed office within a period of approximately 1 year of each other. The 15-year terms of the Court's remaining 5 original associate judges will expire within a period of approximately 1 year of each. Even assuming the application of the Rule of 80 under 38 U.S.C. § 7296(b)(1) (and assuming no reappointments under 38 U.S.C. § 7296(2)), 4 of 5 of the court's original associate judges will retire within 11 months of each other, beginning in September 2004.

Given the length of time likely to be involved in the nomination and confirmation process, especially considering the election of a President in November 2004, 3 of the Court's judgeships are very likely to be simultaneously vacant during a substantial part of 2005, and it is quite possible that a majority of the judgeships could be simultaneously vacant during part of that year and possibly thereafter. Then, even after the judgeships are filled, there could well be considerable lack of experience among the majority of the Court's judges. This situation would almost certainly dramatically increase the Court's backlog—initially during

the vacancies and continuing during the startup period for the replacement judges. As well, during the vacancy period the Court could be in a situation where two or three judges might be able to overrule prior Court precedent. In order to overcome such problems, the enclosed legislative proposal includes, as section 201, a provision to create a staggered-retirement option designed to encourage the sequencing of associate judge retirements starting in 1999. It is important to bear in mind, when considering the staggered-retirement provision, that the formula for an early retirement annuity must provide sufficient financial incentive for an associate judge to elect to forego the full retirement benefit that would be available upon completion of the 15-year term or satisfaction of the Rule of 80. There is no sense whatsoever in legislating a formula that will not produce the early retirements that are essential to avoid the serious adverse consequences that would result for the Court from having 3-4 simultaneous judicial vacancies for an extended period of time.

Moreover, as I also indicated in my February 4, 1997, letter, implementation of this proposed Title II may be achievable without seeking additional appropriations for this purpose. In this regard, subsection (d) of the proposed section 201 would permit the Court to utilize 38 U.S.C. § 7298(e)(2)(A) in anticipation of a payment that may have to be made from the Court's retirement fund. It should be noted that, even absent staggered retirement, the proposed subsection (d) would allow the Court to provide for much better management of a judge's anticipated entry, under 38 U.S.C. § 7296(d)(1)(A), into the Court's retirement system.

In addition, in order to provide for recall of retired judges in the event of judicial vacancies or increased workload, included in the legislative proposal as section 202 is the same basic provision that was included in last year's proposal as section 102. In order to help with the simultaneous vacancy problem described above, the provision has been revised to make specific reference to a voluntary recall in the event of a vacancy in an associate judge position. However, this recall provision could not itself prevent the simultaneous vacancies that section 201 is designed to forestall.

Finally, for completeness sake, the proposal includes, as Title III, a provision to change the Court's name to the United States Court of Appeals for Veterans Claims, which I proposed in my February 4, 1997, letter and which passed the House on April 16, 1997, in section 201 of H.R. 1092. Title III differs from section 201 only so as to accommodate the former to the style of the rest of the proposal.

Enclosed, for your information, is an overview, a cost estimate, a draft bill, and a detailed section-by-section summary and explanation.

Thank you for your assistance. I urge that you and the Committee give favorable consideration to the enclosed legislative proposal to reform the Court's judicial retirement provisions and provide for a staggered-retirement option designed to avoid the impact of simultaneous judicial vacancies. I am sending the same letter and enclosures to Chairman Stump, and Ranking Minority Members Rockefeller and Evans.

Sincerely,

FRANK Q. NEBEKER,
Chief Judge.

By Mr. DORGAN (for himself and Mrs. FEINSTEIN):

S. 989. A bill entitled the "Safer Schools Act of 1997"; to the Committee on Labor and Human Resources.

THE SAFER SCHOOLS ACT OF 1997

Mr. DORGAN. Mr. President, I am going to introduce a piece of legislation today that I will describe briefly.

In the Senate a couple of years ago, I authored, with Senator FEINSTEIN from California, and several others, a piece of legislation that says we ought to have zero tolerance in this country for guns in schools, zero tolerance for guns in schools. We said in the legislation that school districts in this country should have in place a policy that says if a student is caught bringing a gun to school, the student will be expelled for a year. Mr. President, over 6,000 students have now suffered expulsion as a result of bringing weapons to school.

Weapons in school are serious. You cannot learn unless a school is a safe place for learning. Yet, even today we see the news stories. On February 17, this year, a 16-year-old Miami Edison Senior High School student shot a 9th grade girl at school. In Memphis, TN, on March 28, this year, a 16-year-old student was shot on the campus of Chicksaw Junior High by a 15-year-old student. On February 11, two students were shot and wounded in Bronx high schools. On March 29, Detroit, MI, a 16-year-old student was shot seven times while standing in the back hallways of a high school. On February 18 this year, a 13-year-old middle school student was charged with attempting to murder his teacher.

I was at a school not too many blocks from this building a couple of years ago. You go through metal detectors; there are security guards seated at the front of the school. The school is a lock-down school. When the students get in, they lock the door. You have to go through metal detectors to get in. About a month after I was there, a student bumped another one at the water fountain and the other student pulled a gun and shot him four times. That is a school within blocks of this U.S. Capitol building.

We passed a piece of legislation that says there shall be zero tolerance for guns in schools, and students bringing guns to school shall be expelled from school for a year. That has worked in the sense that it has taken those who brought guns to school out of school to make sure other students are safe. But something has happened in the meantime. After we passed that legislation and it became law, a court in New York issued a ruling that was about as goofy a court ruling as any I have ever heard. In New York, in a school, a young boy came in one day wearing a leather jacket and went through the front door of the school and began walking down a hallway. The security guard noticed a bulge under the leather jacket near the waistline, so he apprehended the student and reached under this jacket and took from the student a loaded pistol—a loaded pistol was in the possession of this 16-year-old boy walking down the hallway. The 16-year-old boy was obviously taken from school that

day and put in a disciplinary proceeding and expelled, and a number of things happened. The boy appealed it, and a court in New York decided that the evidence of a gun on a 16-year-old boy in school had to be discarded because the security guard did not have probable cause to search the student in the hallway of the school.

Now, when I saw the decision by the New York court, it occurred to me to be so nonsensical as to require nothing from any of us. Then I decided that if we do nothing, it means that somehow someone believes that court was thinking straight. Well, it was not, and I introduced in the last session, and will reintroduce today on behalf of myself and Senator FEINSTEIN, a piece of legislation that makes it clear that evidence of a gun seized in school cannot be dismissed as evidence. Evidence of a gun can be used in a school disciplinary proceeding.

There is no right to carry a gun in school. If that 16-year-old boy had gone to National Airport to try to board a plane, they would have forced him to go through a metal detector and they would have said you cannot get on a commercial airplane if you are carrying a pistol. But the judge's decision seems to say somehow that the security guard was at fault. The security guard noticed a gun on this young student, or at least a bulge in the leather jacket, and took a loaded pistol from this boy in a public school, and the security guard is at fault for obtaining evidence inappropriately? I do not think so. That is not the way this country should work. If we say you cannot take a loaded gun on an airplane, we ought to be able to say a 16-year-old boy cannot take a loaded pistol into a school. If we do not have the opportunity and ability to say that and make it stick, there is precious little hope for education in this country.

This legislation will make sure that no judge ever again is able to say that a security guard erred in taking away a loaded pistol from a 16-year-old boy walking in the hallways of our public schools. When we passed the Gun Free Schools Act and said that there shall be expulsion all across this country for kids bringing guns to schools, we wanted to send a national message to every student in this country, "Don't even think about bringing a gun to school, because there will be certain and immediate results. The results will be you will be expelled, no ifs, ands, or buts."

It has been successful. Have we prevented every act of violence in school? No, but thousands of children who brought guns to school are now not in the classroom threatening other students. They are expelled from those classrooms, many of them probably in some alternative setting, but they are not in the classroom terrorizing other students.

I am so appalled by the decision of the court in New York that I want a Federal law to complete the Gun Free Schools Act with the legislation we introduce today called the Safer Schools

Act. Any young person who brings a gun to school should expect that a security guard at the front door can remove that gun from them and that it will later be used as evidence in a school disciplinary proceeding.

Mr. President, I appreciate the courtesy of the Senator from South Carolina. I know that the piece of legislation that he brings to the floor of the Senate, called the defense authorization bill, is one of the largest pieces of legislation that we deal with at any time during the year here in Congress. It contains important matters dealing with America's preparedness. I am anxious to debate parts of that bill and I wanted to compliment the Senator from South Carolina, Senator THURMOND, for his leadership and Senator LEVIN from Michigan for his leadership. I hope we can make significant progress this week on the legislation. I hope my speaking in morning business has not impeded that in any way. I appreciate the Senator's courtesy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 989

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safer Schools Act of 1997".

SEC. 2. SAFER SCHOOLS.

(a) IN GENERAL.—Section 14601(b)(1) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(b)(1)) is amended—

(1) by striking "under this Act shall have" and inserting the following: "under this Act—

"(A) shall have";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(B) beginning not later than 2 years after the date of enactment of the Safer Schools Act of 1997, shall have in effect a State law or regulation providing that evidence that a student brought a weapon to a school under the jurisdiction of the local educational agencies in that State, that is obtained as a result of a search or seizure conducted on school premises, shall not be excluded in any school disciplinary proceeding on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States.".

(b) REPORT TO STATE.—Section 14601(d) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(d)) is amended—

(1) in paragraph (1), by striking "the State law required by" and inserting "each State law or regulation"; and

(2) in paragraph (2), by striking "subsection (b)" and inserting "subsection (b)(1)(A)".

(c) REPORT TO CONGRESS.—Section 14601(f) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(f)) is amended by inserting "of subsection (b)(1)(A)" before "of this".

By Mr. FAIRCLOTH:

S. 990. A bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING
ESTABLISHMENT ACT

Mr. FAIRCLOTH. Mr. President, I am today introducing the National Institute of Biomedical Imaging Establishment Act.

This legislation would consolidate imaging research activities that are currently dispersed throughout the National Institutes of Health under a single administrative structure. This consolidation is needed to ensure that the American taxpayer receives the maximum possible return on our investment in critical new medical technologies. My legislation does not authorize any new spending; instead, it restructures existing programs in order to increase efficiency, provide greater accountability, and improve the process of setting priorities and allocating valuable resources for research. It also establishes a mechanism to coordinate the imaging research that is currently funded—without an overall plan—by federal agencies outside NIH.

The NIH is a national treasure, but it is organized to support research into specific diseases and organ systems. Its structure is less well suited to a technology that cuts across these lines and is applicable to virtually all diseases and organs. This legislation will create a research infrastructure at NIH to develop the imaging technologies of the 21st century. Based on the remarkable record of imaging innovations in the past 25 years, breakthroughs in the coming years will allow physicians to detect, diagnose, and treat disease more effectively, less invasively, and less expensively. Nearly every American who needs health care services will benefit from this proposal.

I urge my colleagues to join in this effort to meet the scientific and budgetary challenges we face in medical research.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 230

At the request of Mr. THURMOND, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 489

At the request of Mr. KYL, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 489, a bill to improve the criminal law relating to fraud against consumers.

S. 493

At the request of Mr. KYL, the name of the Senator from South Carolina

[Mr. THURMOND] was added as a cosponsor of S. 493, a bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

S. 511

At the request of Mr. CHAFEE, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 511, a bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes.

S. 649

At the request of Ms. SNOWE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 649, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the medicare program.

S. 766

At the request of Ms. SNOWE, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 834

At the request of Mr. HARKIN, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 834, a bill to amend the Public Health Service Act to ensure adequate research and education regarding the drug DES.

S. 912

At the request of Mr. BOND, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 912, a bill to provide for certain military retirees and dependents a special medicare part B enrollment period during which the late enrollment penalty is waived and a special medigap open period during which no under-writing is permitted.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE RESOLUTION 99

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of Senate Resolution 99, a resolution to encourage consumers to consult with their pharmacists in connection with the purchase and use of over-the-counter drug products.