

for the work of other non-attorneys such as paralegals and law students based upon prevailing market rates for the kind and quality of the services furnished. 28 U.S.C. §2412(d)(2)(A). See, *Sandoval v. Brown*, 9 Vet. App. 177, 181 (1996).

LEGISLATIVE PROVISIONS NOT ADOPTED  
ARLINGTON NATIONAL CEMETERY

*Current law*

Eligibility for burial at Arlington National Cemetery is governed by federal regulations at section 553.15 of title 32, Code of Federal Regulations. The following categories of persons are eligible for in-ground burial: active duty members of the Armed Forces, except those members serving on active duty for training; retired members of the Armed Forces who have served on active duty, are on a retired list and are entitled to receive retirement pay; former members of the Armed Forces discharged for disability before October 1, 1949, who served on active duty and would have been eligible for retirement under 10 U.S.C. 1202 had the statute been in effect on the date of separation; honorably discharged members of the Armed Forces awarded the Medal of Honor, Distinguished Service Cross, Air Force Cross or Navy Cross, Distinguished Service Medal, Silver Star, or Purple Heart; former prisoners of war who served honorably and who died on or after November 30, 1993; provided they were honorably discharged from the Armed Forces, elected federal officials (the President, Vice President, and Members of Congress), federal cabinet secretaries and deputies, agency directors and certain other high federal officials (level I and II executives), Supreme Court Justices, and chiefs of certain diplomatic missions; the spouse, widow or widower, minor child (under 21 years of age) and, at the discretion of the Secretary of the Army, certain unmarried adult children, and certain surviving spouses.

*House bill*

H.R. 4940 would codify eligibility criteria for in-ground burial at Arlington National Cemetery: members of the Armed Forces who die on active duty; retired members of the Armed Forces, including reservists who served on active duty; members or former members of a reserve component who, but for age, would have been eligible for retired pay; members of a reserve component who die in the performance of duty while on active duty training or inactive duty training; former members of the Armed Forces who have been awarded the Medal of Honor, Distinguished Service Cross (Air Force Cross or Navy Cross), Distinguished Service Medal, Silver Star, or Purple Heart; former prisoners of war who die on or after November 30, 1993; the President or any former President; members of the Guard or Reserves who served on active duty, who are eligible for retirement, but who have not yet retired; the spouse, surviving spouse, minor child and at the discretion of the Superintendent of Arlington, and certain unmarried adult children. Veterans who do not meet these requirements might qualify for the placement of their cremated remains in Arlington's columbarium.

H.R. 4940 would also provide the President the authority to grant a waiver for burial at Arlington in the case of an individual not otherwise eligible for burial under the criteria outlined above but whose acts, service, or contributions to the Armed Forces were so extraordinary as to justify burial at Arlington. The President would be allowed to delegate the waiver authority only to the Secretary of the Army.

H.R. 4940 would codify existing regulatory eligibility for interment of cremated re-

mains in the columbarium at Arlington (generally, this includes all veterans with honorable service and their dependents), clarify that only memorials honoring military service may be placed at Arlington and set a 25-year waiting period for such memorials, and clarify that in the case of individuals buried in Arlington before the date of enactment, the surviving spouse is deemed to be eligible if buried in the same gravesite.

*Senate bill*

The Senate Bill contains no comparable provision.

Increase of Veterans' Mortgage Life Insurance ("VMLI") Coverage to \$150,000

*Current law*

Section 2106(b) of title 38, United States Code, provides that VMLI may not exceed \$90,000.

*House bill*

Section 5(a) of H.R. 4085 would increase the maximum amount of coverage available under Veterans' Mortgage Life Insurance from \$90,000 to \$150,000. This would increase the amount of the outstanding mortgage, which would be payable if the veteran were to die before the mortgage is paid in full.

*Senate bill*

The Senate Bill contains no comparable provision.

Uniform Home Loan Guaranty Fees for Qualifying Members of the Selected Reserve and Active Duty Veterans

*Current law*

Section 3729(b) of title 38, United States Code, provides the amounts in fees to be collected from each person participating in VA's Home Loan Guaranty Program. Currently, members of the Selected Reserve pay a 0.75 percent higher funding fee under the home loan program than other eligible veterans.

*House bill*

Section 4 of H.R. 4085 would amend the Loan Fee Table in section 3729(b) of title 38, United States Code, to provide for uniformity in the funding fees charged to members of the Selected Reserve and active duty veterans for VA home loans. The fee would be reduced for the period beginning on October 1, 2002, and ending on September 30, 2005.

*Senate bill*

The Senate Bill contains no comparable provision.

Prohibit Assignment of Monthly Veterans Benefits and Create an Education and Outreach Campaign About Financial Services Available to Veterans

*Current law*

Section 5301 of title 38, United States Code, currently prohibits the assignment or attachment of a veteran's disability compensation or pension benefits. In recent years, private companies have offered contracts to veterans that exchange up-front lump sums for future benefits.

*Senate bill*

Section 105 of S. 2237 would clarify the applicability of the prohibition on assignment of veterans benefits through agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation. This provision would make violation of this prohibition punishable by a fine and up to one year in jail.

This provision would also require VA to create a five-year education and outreach campaign to inform veterans about available financial services.

*House bill*

The House Bills contain no comparable provision.

Clarification of Retroactive Application of Provisions of the Veterans Claims Assistance Act

*Current law*

Public Law 106-475, the Veterans Claims Assistance Act of 2000 ("VCAA"), restored and enhanced VA's duty to assist claimants in developing their claims for veterans benefits. Specifically, section 3(a) of the VCAA requires VA to take certain steps to assist claimants.

Two recent decisions by the U.S. Court of Appeals for the Federal Circuit have found that the provisions in the VCAA pertaining to VA's duty to assist cannot be applied retroactively to claims pending at the time of its enactment. In *Dyment v. Principi*, 287 F.3d 1377 (Fed. Cir. 2002), the Federal Circuit stated: "The Supreme Court has held that a federal statute will not be given retroactive effect unless Congress has made its contrary intention clear. There is nothing in the VCAA to suggest that section 3(a) was intended to applied [sic] retroactively." In *Bernklau v. Principi*, 291 F.3d 795, 806 (Fed. Cir. 2002), the Court again concluded: "[S]ection 3(a) of the VCAA does not apply retroactively to require that proceedings that were complete before the Department of Veterans Affairs and were on appeal to the Court of Appeals for Veterans Claims or this court be remanded for readjudication under the new statute."

*Senate bill*

Section 504 of S. 2237 would apply section 3 of VCAA retroactively to cases that were ongoing either at various adjudication levels within VA or pending at the applicable Federal courts prior to the date of VCAA's enactment. Section 505 of the Senate Bill would provide for claims decided between the handing down of the Dyment case and enactment of this provision to receive the full notice, assistance, and protection afforded under the VCAA.

*House bill*

The House Bills contain no comparable provision.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, the various titles are amended.

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF VARIOUS LEGISLATIVE MEASURES

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that, in the engrossment of the measures just passed, the Clerk be authorized to correct spelling, punctuation, numbering, and cross references, and to make such other changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the measures just passed and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills and concurrent resolution of the House of the following titles:

H.R. 3758. An act for the relief of So Hyun Jun.

H.R. 3988. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

H.R. 4727. An act to reauthorize the national dam safety program, and for other purposes.

H.R. 5590. An act to amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations.

H. Con. Res. 487. concurrent resolution authorizing the printing as a House document of a volume consisting of the transcripts of the ceremonial meeting of the House of Representatives and Senate in New York City on September 6, 2002, and a collection of statements by Members of the House of Representatives and Senate from the Congressional Record on the terrorist attacks of September 11, 2001.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3908. An act to reauthorize the North American Wetlands Conservation Act, and for other purposes.

H.R. 5557. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

The message also announced that the Senate has passed bills and joint resolution and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2520. An act to amend title 18, United States Code, with respect to the sexual exploitation of children.

S. 2934. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

S. J. Res. 42. Joint resolution commending Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training.

S. Con. Res. 155. Concurrent resolution affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that November 27, 2002, should be designated as a national day of prayer and fasting.

#### PROVIDING FOR PRINTING AND BINDING OF REVISED EDITION OF RULES AND MANUAL OF HOUSE OF REPRESENTATIVES

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 614) and ask unani-

mous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 614

*Resolved*, That a revised edition of the Rules and Manual of the House of Representatives for the One Hundred Eighth Congress be printed as a House document, and that three thousand additional copies shall be printed and bound for the use of the House of Representatives, of which nine hundred copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 615) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 615

*Resolved*, that a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### APPOINTMENT AS MEMBERS OF THE COMMITTEE TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION AND ARE READY TO ADJOURN

The SPEAKER pro tempore. Pursuant to House Resolution 615, the Chair appoints the following Members of the House to the Committee to notify the President:

The gentleman from Texas, Mr. ARMEY;

The gentleman from Missouri, Mr. GEPHARDT.

#### AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR BY THE HOUSE NOT WITHSTANDING SINE DIE ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the second session of the 107th Congress, the

Speaker, the majority leader, and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### AUTHORIZING CHAIRMAN AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND SUBCOMMITTEE TO EXTEND REMARKS IN RECORD

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee be permitted to extend their remarks in the RECORD, up to and including the RECORD's LAST PUBLICATION, AND TO INCLUDE A SUMMARY OF THE WORK OF THAT COMMITTEE OR SUBCOMMITTEE.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO REVISE AND EXTEND REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that Members may have until publication of the last edition of the CONGRESSIONAL RECORD authorized for the second session of the 107th Congress by the Joint Committee on Printing to revise and extend their remarks and to include brief, related extraneous material on any matter occurring before the adjournment of the second session sine die.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### CONVENING OF FIRST SESSION OF THE 108TH CONGRESS

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 53) and ask for its immediate consideration in the House.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 53

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the first regular session of the One Hundred Eighth Congress begin at noon on Tuesday, January 7, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.