

One Hundred Eighth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the twentieth day of January, two thousand and four*

An Act

To amend title 38, United States Code, to improve and extend housing, education, and other benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans Benefits Improvement Act of 2004”.

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

- Sec. 1. Short title; table of contents.
Sec. 2. Reference to title 38, United States Code.

TITLE I—VETERANS EARN AND LEARN ACT

- Sec. 101. Short title.
Sec. 102. Modification of benefit entitlement charges for certain on-job training programs.
Sec. 103. Increase in benefit for individuals pursuing apprenticeship or on-job training.
Sec. 104. Authority for competency-based apprenticeship programs.
Sec. 105. Ten-year extension of delimiting period for survivors’ and dependents’ educational assistance for spouses of members who die on active duty.
Sec. 106. Availability of education benefits for payment for national admissions exams and national exams for credit at institutions of higher education.
Sec. 107. Requirement for coordination of data among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training.
Sec. 108. Pilot program to provide on-job benefits to train Department of Veterans Affairs’ claims adjudicators.
Sec. 109. Collection of payment for educational assistance under Montgomery GI Bill from members of the Selected Reserve called to active duty.
Sec. 110. Technical and conforming amendments.

TITLE II—EMPLOYMENT MATTERS

Subtitle A—Employment and Reemployment Rights

- Sec. 201. Two-year period of continuation of employer-sponsored health care coverage.
Sec. 202. Reinstatement of reporting requirements.
Sec. 203. Requirement for employers to provide notice of rights and duties under USERRA.
Sec. 204. Demonstration project for referral of USERRA claims against Federal agencies to the Office of Special Counsel.

Subtitle B—Other Matters

- Sec. 211. Report of employment placement, retention, and advancement of recently separated servicemembers.

TITLE III—BENEFITS MATTERS

- Sec. 301. Additional dependency and indemnity compensation for surviving spouses with dependent children.

- Sec. 302. Offset of veterans' disability compensation and dependency and indemnity compensation from awards under radiation exposure compensation program.
- Sec. 303. Exclusion of life insurance proceeds from consideration as income for veterans' pension purposes.
- Sec. 304. Certain service-connected disability benefits authorized for persons disabled by treatment or vocational rehabilitation provided by the Department of Veterans Affairs.
- Sec. 305. Effective date of death pension.
- Sec. 306. Codification of administrative actions relating to presumptions of service connection for veterans exposed to ionizing radiation.
- Sec. 307. Codification of cost-of-living adjustment provided in Public Law 108-47.
- Sec. 308. Cross-reference amendments relating to concurrent payment of retired pay and veterans' disability compensation.

TITLE IV—HOUSING MATTERS

- Sec. 401. Authority to provide specially adapted housing to certain disabled veterans.
- Sec. 402. Transitional housing amendments.
- Sec. 403. Increase in maximum amount of home loan guaranty for construction and purchase of homes and annual indexing of amount.
- Sec. 404. Extension of authority for guarantee of adjustable rate mortgages.
- Sec. 405. Extension and improvement of authority for guarantee of hybrid adjustable rate mortgages.
- Sec. 406. Termination of collection of loan fees from veterans rated eligible for compensation at pre-discharge rating examinations.
- Sec. 407. Three-year extension of Native American veteran housing loan pilot program.

TITLE V—MATTERS RELATING TO FIDUCIARIES

- Sec. 501. Definition of fiduciary.
- Sec. 502. Inquiry, investigations, and qualification of fiduciaries.
- Sec. 503. Misuse of benefits by fiduciaries.
- Sec. 504. Additional protections for beneficiaries with fiduciaries.
- Sec. 505. Annual report.
- Sec. 506. Annual adjustment in benefits thresholds.
- Sec. 507. Effective dates.

TITLE VI—MEMORIAL AFFAIRS MATTERS

- Sec. 601. Designation of Prisoner of War/Missing in Action National Memorial, Riverside National Cemetery, Riverside, California.
- Sec. 602. Lease of certain National Cemetery Administration property.
- Sec. 603. Exchanges of real property for national cemeteries.

TITLE VII—IMPROVEMENTS TO SERVICEMEMBERS CIVIL RELIEF ACT

- Sec. 701. Clarification of meaning of "judgment" as used in the Act.
- Sec. 702. Requirements relating to waiver of rights under the Act.
- Sec. 703. Right of servicemember plaintiffs to request stay of civil proceedings.
- Sec. 704. Termination of leases.

TITLE VIII—OTHER MATTERS

- Sec. 801. Principal office of United States Court of Appeals for Veterans Claims.
- Sec. 802. Technical amendments relating to the United States Court of Appeals for Veterans Claims.
- Sec. 803. Extension of biennial report of Advisory Committee on Former Prisoners of War.
- Sec. 804. Availability of administrative and judicial redress for certain veterans denied opportunity to compete for Federal employment.
- Sec. 805. Report on servicemembers' and veterans' awareness of benefits and services available under laws administered by Secretary of Veterans Affairs.

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

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

TITLE I—VETERANS EARN AND LEARN ACT

SEC. 101. SHORT TITLE.

This title may be cited as the “Veterans Earn and Learn Act of 2004”.

SEC. 102. MODIFICATION OF BENEFIT ENTITLEMENT CHARGES FOR CERTAIN ON-JOB TRAINING PROGRAMS.

(a) IN GENERAL.—Section 3687 is amended by adding at the end the following new subsection:

“(e)(1) For each month that an individual (as defined in paragraph (3)) is paid a training assistance allowance under subsection (a), the entitlement of the individual shall be charged at a percentage rate (rounded to the nearest percent) that is equal to the ratio of—

“(A) the training assistance allowance for the month involved, to

“(B) the monthly educational assistance allowance otherwise payable for full-time enrollment in an educational institution.”

“(2) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under paragraph (1) shall be reduced in the same proportion as the monthly training assistance allowance payable is reduced under subsection (b)(3).

“(3) In this section, the term ‘individual’ means—

“(A) an eligible veteran who is entitled to monthly educational assistance allowances payable under section 3015(e) of this title, or

“(B) an eligible person who is entitled to monthly educational assistance allowances payable under section 3532(a) of this title,

as the case may be.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to months beginning after September 30, 2005.

SEC. 103. INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING.

(a) MONTGOMERY GI BILL.—For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (c)(1) of section 3032 of title 38, United States Code, shall be applied as if—

(1) the reference to “75 percent” in subparagraph (A) were a reference to “85 percent”;

(2) the reference to “55 percent” in subparagraph (B) were a reference to “65 percent”; and

(3) the reference to “35 percent” in subparagraph (C) were a reference to “45 percent”.

(b) POST-VIETNAM ERA VETERANS’ EDUCATIONAL ASSISTANCE.—For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (a) of section 3233 of title 38, United States Code, shall be applied as if—

(1) the reference to “75 percent” in paragraph (1) were a reference to “85 percent”;

(2) the reference to “55 percent” in paragraph (2) were a reference to “65 percent”; and

(3) the reference to “35 percent” in paragraph (3) were a reference to “45 percent”.

(c) SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.—

(1) For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (b)(2) of section 3687 of title 38, United States Code, shall be applied as if—

(A) the reference to “\$574 for the first six months” were a reference to “\$650 for the first six months”;

(B) the reference to “\$429 for the second six months” were a reference to “\$507 for the second six months”; and

(C) the reference to “\$285 for the third six months” were a reference to “\$366 for the third six months”.

(2) Subsection (d) of such section 3687 shall not apply with respect to the provisions of paragraph (1) for months occurring during fiscal year 2006.

(3) For months beginning on or after January 1, 2008, the Secretary shall carry out subsection (b)(2) of such section 3687 as if paragraphs (1) and (2) were not enacted into law.

(d) SELECTED RESERVE MONTGOMERY GI BILL.—For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (d)(1) of section 16131 of title 10, United States Code, shall be applied as if—

(1) the reference to “75 percent” in subparagraph (A) were a reference to “85 percent”;

(2) the reference to “55 percent” in subparagraph (B) were a reference to “65 percent”; and

(3) the reference to “35 percent” in subparagraph (C) were a reference to “45 percent”.

SEC. 104. AUTHORITY FOR COMPETENCY-BASED APPRENTICESHIP PROGRAMS.

(a) IN GENERAL.—Section 3672(c) is amended—

(1) by striking “(1)” and “(2)” and inserting “(A)” and “(B)”, respectively;

(2) by inserting “(1)” after “(c)”; and

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

“(2) The period of a program of apprenticeship may be determined based upon a specific period of time (commonly referred to as a ‘time-based program’), based upon the demonstration of successful mastery of skills (commonly referred to as a ‘competency-based program’), or based upon a combination thereof.

“(3)(A) In the case of a competency-based program of apprenticeship, State approving agencies shall determine the period for which payment may be made for such a program under chapters 30 and 35 of this title and chapter 1606 of title 10. In determining the period of such a program, State approving agencies shall take into consideration the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor.

“(B) The sponsor of a competency-based program of apprenticeship shall provide notice to the State approving agency involved of any such standards that may apply to the program and the proposed approximate period of training under the program.

“(4) The sponsor of a competency-based program of apprenticeship shall notify the Secretary upon the successful completion of

a program of apprenticeship by an individual under chapter 30 or 35 of this title, or chapter 1606 of title 10, as the case may be.”.

(b) **INCREASED USE OF APPRENTICESHIPS.**—Section 3672(d)(1) is amended by adding at the end the following new sentence: “The Secretary of Labor shall provide assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.”.

(c) **FUNDING FOR DEPARTMENT COMPUTER SYSTEM MODIFICATIONS.**—From amounts appropriated to the Department of Veterans Affairs for fiscal year 2005 for readjustment benefits, the Secretary of Veterans Affairs shall use an amount not to exceed \$3,000,000 to modify computer systems and to develop procedures required to carry out the amendments made by subsection (a) and sections 102 and 103.

SEC. 105. TEN-YEAR EXTENSION OF DELIMITING PERIOD FOR SURVIVORS’ AND DEPENDENTS’ EDUCATIONAL ASSISTANCE FOR SPOUSES OF MEMBERS WHO DIE ON ACTIVE DUTY.

Section 3512(b)(1) is amended—

(1) in subparagraph (A), by striking “in subparagraph (B)” and inserting “in subparagraph (B) or (C)”; and

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

SEC. 106. AVAILABILITY OF EDUCATION BENEFITS FOR PAYMENT FOR NATIONAL ADMISSIONS EXAMS AND NATIONAL EXAMS FOR CREDIT AT INSTITUTIONS OF HIGHER EDUCATION.

(a) **COVERED EXAMS.**—Sections 3452(b) and 3501(a)(5) are each amended by adding at the end the following new sentence: “Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the Scholastic Aptitude Test (SAT), Law School Admission Test (LSAT), Graduate Record Exam (GRE), and Graduate Management Admission Test (GMAT)) and national tests providing an opportunity for course credit at institutions of higher learning (such as the Advanced Placement (AP) exam and College-Level Examination Program (CLEP)).”.

(b) **AMOUNT OF PAYMENT.**—

(1) **CHAPTER 30.**—Section 3032 is amended by adding at the end the following new subsection:

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

“(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational

assistance, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

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

(2) CHAPTER 32.—Section 3232 is amended by adding at the end the following new subsection:

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

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

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

(3) CHAPTER 35.—Section 3532 is amended by adding at the end the following new subsection:

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

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

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

SEC. 107. REQUIREMENT FOR COORDINATION OF DATA AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.

Section 3694 is amended—

(1) by striking “In carrying out” and inserting “(a) IN GENERAL.—In carrying out”; and

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

“(b) COORDINATION OF INFORMATION AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.—At the time of a servicemember’s discharge or release from active duty service, the Secretary of Defense shall furnish to the Secretary such pertinent information concerning each registered apprenticeship pursued by the servicemember during

the period of active duty service of the servicemember. The Secretary, in conjunction with the Secretary of Labor, shall encourage and assist States and private organizations to give credit to servicemembers for the registered apprenticeship program so pursued in the case of any related apprenticeship program the servicemember may pursue as a civilian.”.

SEC. 108. PILOT PROGRAM TO PROVIDE ON-JOB BENEFITS TO TRAIN DEPARTMENT OF VETERANS AFFAIRS’ CLAIMS ADJUDICATORS.

Section 3677 is amended by adding at the end the following new subsection:

“(d)(1) The Secretary may conduct a pilot program under which the Secretary operates a program of training on the job under this section for a period (notwithstanding subsection (c)(2)) of up to three years in duration to train employees of the Department to become qualified adjudicators of claims for compensation, dependency and indemnity compensation, and pension.

“(2)(A) Not later than three years after the implementation of the pilot project, the Secretary shall submit to Congress an initial report on the pilot project. The report shall include an assessment of the usefulness of the program in recruiting and retaining of personnel of the Department as well as an assessment of the value of the program as a training program.

“(B) Not later than 18 months after the date on which the initial report under subparagraph (A) is submitted, the Secretary shall submit to Congress a final report on the pilot project. The final report shall include recommendations of the Secretary with respect to continuation of the pilot project and with respect to expansion of the types of claims for which the extended period of on the job training is available to train such employees.”.

SEC. 109. COLLECTION OF PAYMENT FOR EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FROM MEMBERS OF THE SELECTED RESERVE CALLED TO ACTIVE DUTY.

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

(1) by striking “The basic pay” and inserting “(1) Except as provided in paragraph (2), the basic pay”;

(2) by designating the second sentence as paragraph (3) and in that paragraph by striking “this chapter” and inserting “this subsection”; and

(3) by inserting after paragraph (1), as so designated, the following new paragraph:

“(2) In the case of an individual covered by paragraph (1) who is a member of the Selected Reserve, the Secretary of Defense shall collect from the individual an amount equal to \$1,200 not later than one year after completion by the individual of the two years of service on active duty providing the basis for such entitlement. The Secretary of Defense may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.”.

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

(1) by striking “The basic pay” and inserting “(1) Except as provided in paragraph (2), the basic pay”;

(2) by designating the second sentence as paragraph (3) and in that paragraph by striking “this chapter” and inserting “this subsection”; and

(3) by inserting after paragraph (1), as so designated, the following new paragraph:

“(2) In the case of an individual covered by paragraph (1) who is a member of the Selected Reserve, the Secretary of Defense shall collect from the individual an amount equal to \$1,200 not later than one year after completion by the individual of the two years of service on active duty providing the basis for such entitlement. The Secretary of Defense may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.”.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITION OF TRAINING ESTABLISHMENT.—Section 3452(e), as amended by section 301 of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2658), is amended in paragraph (5) to read as follows:

“(5) The sponsor of a program of apprenticeship.”.

(b) CLARIFICATION OF APPLICABLE APPRENTICESHIP STANDARDS.—(1) Section 3672(c), as amended by section 105(a), is amended in subparagraph (A) by inserting “apprenticeship” before “standards”.

(2) Section 3672(d)(1) is amended by striking “of programs of training on the job (including programs of apprenticeship)” and inserting “of apprenticeship and on the job training programs”.

(c) RECORD-KEEPING REQUIREMENTS FOR QUALIFIED PROVIDERS OF ENTREPRENEURSHIP COURSES.—(1) Section 3675(c) is amended by adding at the end the following new paragraph:

“(4) Notwithstanding paragraph (3), a qualified provider of entrepreneurship courses shall maintain such records as the Secretary determines to be necessary to comply with reporting requirements that apply under section 3684(a)(1) of this title with respect to eligible persons and veterans enrolled in an entrepreneurship course offered by the provider.”.

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 305(a) of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2660).

(d) AUTHORITY TO PAY REPORTING FEE.—Section 3684(c) is amended by striking “or to any joint apprenticeship training committee acting as a training establishment” and inserting “or to the sponsor of a program of apprenticeship”.

TITLE II—EMPLOYMENT MATTERS

Subtitle A—Employment and Reemployment Rights

SEC. 201. TWO-YEAR PERIOD OF CONTINUATION OF EMPLOYER-SPONSORED HEALTH CARE COVERAGE.

(a) IMPROVEMENT IN PERIOD OF COVERAGE.—Subsection (a)(1)(A) of section 4317 is amended by striking “18-month period” and inserting “24-month period”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to elections made under section 4317 of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 202. REINSTATEMENT OF REPORTING REQUIREMENTS.

Section 4332 is amended in the matter preceding paragraph (1) by striking “no later than February 1, 1996, and annually thereafter through 2000” and inserting “no later than February 1, 2005, and annually thereafter”.

SEC. 203. REQUIREMENT FOR EMPLOYERS TO PROVIDE NOTICE OF RIGHTS AND DUTIES UNDER USERRA.

(a) **NOTICE.**—Chapter 43 is amended by adding at the end the following new section:

“§ 4334. Notice of rights and duties

“(a) **REQUIREMENT TO PROVIDE NOTICE.**—Each employer shall provide to persons entitled to rights and benefits under this chapter a notice of the rights, benefits, and obligations of such persons and such employers under this chapter. The requirement for the provision of notice under this section may be met by the posting of the notice where employers customarily place notices for employees.

“(b) **CONTENT OF NOTICE.**—The Secretary shall provide to employers the text of the notice to be provided under this section.”.

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

“4334. Notice of rights and duties.”.

(c) **IMPLEMENTATION.**—(1) Not later than the date that is 90 days after the date of the enactment of this Act, the Secretary of Labor shall make available to employers the notice required under section 4334 of title 38, United States Code, as added by subsection (a).

(2) The amendments made by this section shall apply to employers under chapter 43 of title 38, United States Code, on and after the first date referred to in paragraph (1).

SEC. 204. DEMONSTRATION PROJECT FOR REFERRAL OF USERRA CLAIMS AGAINST FEDERAL AGENCIES TO THE OFFICE OF SPECIAL COUNSEL.

(a) **ESTABLISHMENT OF PROJECT.**—The Secretary of Labor and the Office of Special Counsel shall carry out a demonstration project under which certain claims against Federal executive agencies under the Uniformed Services Employment and Reemployment Rights Act under chapter 43 of title 38, United States Code, are referred to, or otherwise received by, the Office of Special Counsel for assistance, including investigation and resolution of the claim as well as enforcement of rights with respect to the claim.

(b) **REFERRAL OF ALL PROHIBITED PERSONNEL ACTION CLAIMS TO THE OFFICE OF SPECIAL COUNSEL.**—(1) Under the demonstration project, the Office of Special Counsel shall receive and investigate all claims under the Uniformed Services Employment and Reemployment Rights Act with respect to Federal executive agencies in cases where the Office of Special Counsel has jurisdiction over related claims pursuant to section 1212 of title 5, United States Code.

(2) For purposes of paragraph (1), a related claim is a claim involving the same Federal executive agency and the same or similar factual allegations or legal issues as those being pursued under a claim under the Uniformed Services Employment and Reemployment Rights Act.

(c) REFERRAL OF OTHER CLAIMS AGAINST FEDERAL EXECUTIVE AGENCIES.—(1) Under the demonstration project, the Secretary—

(A) shall refer to the Office of Special Counsel all claims described in paragraph (2) made during the period of the demonstration project; and

(B) may refer any claim described in paragraph (2) filed before the demonstration project that is pending before the Secretary at the beginning of the demonstration project.

(2) A claim referred to in paragraph (1) is a claim under chapter 43 of title 38, United States Code, against a Federal executive agency by a claimant with a social security account number with an odd number as its terminal digit, or, in the case of a claim that does not contain a social security account number, a case number assigned to the claim with an odd number as its terminal digit.

(d) ADMINISTRATION OF DEMONSTRATION PROJECT.—(1) The Office of Special Counsel shall administer the demonstration project. The Secretary shall cooperate with the Office of Special Counsel in carrying out the demonstration project.

(2) In the case of any claim referred, or otherwise received by, to the Office of Special Counsel under the demonstration project, any reference to the “Secretary” in sections 4321, 4322, and 4326 of title 38, United States Code, is deemed a reference to the “Office of Special Counsel”.

(3) In the case of any claim referred to, or otherwise received by, the Office of Special Counsel under the demonstration project, the Office of Special Counsel shall retain administrative jurisdiction over the claim.

(e) PERIOD OF PROJECT.—The demonstration project shall be carried out during the period beginning on the date that is 60 days after the date of the enactment of this Act, and ending on September 30, 2007.

(f) EVALUATIONS AND REPORT.—(1) The Comptroller General of the United States shall conduct periodic evaluations of the demonstration project under this section.

(2) Not later than April 1, 2007, the Comptroller General shall submit to Congress a report on the evaluations conducted under paragraph (1). The report shall include the following information and recommendations:

(A) A description of the operation and results of the demonstration program, including—

(i) the number of claims described in subsection (c) referred to, or otherwise received by, the Office of Special Counsel, and the number of such claims referred to the Secretary of Labor; and

(ii) for each Federal executive agency, the number of claims resolved, the type of corrective action obtained, the period of time for final resolution of the claim, and the results obtained.

(B) An assessment of whether referral to the office of special counsel of claims under the demonstration project—

- (i) improved services to servicemembers and veterans;
- or
- (ii) significantly reduced or eliminated duplication of effort and unintended delays in resolving meritorious claims of those servicemembers and veterans.

(C) An assessment of the feasibility and advisability of referring all claims under chapter 43 of title 38, United States Code, against Federal executive agencies to the Office of Special Counsel for investigation and resolution.

(D) Such other recommendations for administrative action or legislation as the Comptroller General determines appropriate.

(g) DEFINITIONS.—In this section:

(1) The term “Office of Special Counsel” means the Office of Special Counsel established by section 1211 of title 5, United States Code.

(2) The term “Secretary” means the Secretary of Labor.

(3) The term “Federal executive agency” has the meaning given that term in section 4303(5) of title 38, United States Code.

Subtitle B—Other Matters

SEC. 211. REPORT OF EMPLOYMENT PLACEMENT, RETENTION, AND ADVANCEMENT OF RECENTLY SEPARATED SERVICEMEMBERS.

(a) CONTRACT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into a contract with a qualified entity to conduct a study of and prepare a report on the employment histories of recently separated servicemembers.

(b) CONTENT OF REPORT.—(1) The study conducted pursuant to subsection (a) shall consist of an analysis of employment-related data that have been collected with respect to recently separated servicemembers.

(2) In conducting the study, the qualified entity shall—

(A) determine whether the employment obtained by recently separated servicemembers is commensurate with training and education of those servicemembers;

(B) determine whether recently separated servicemembers received educational assistance or training and rehabilitation under programs administered by the Secretary of Veterans Affairs under chapter 30 or 31 of title 38, United States Code, or under chapter 1606 of title 10, United States Code;

(C) determine whether transition assistance services provided to recently separated servicemembers assisted those servicemembers in obtaining civilian employment;

(D) analyze trends in hiring of veterans by the private sector; and

(E) identify recently separated servicemembers who have reached senior level management positions.

(c) USE OF DATA.—In conducting the study under subsection (a), the qualified entity shall review data compiled and reported by the Bureau of Labor Statistics and shall collect additional data on the employment histories of recently separated servicemembers

available from such other sources as the qualified entity determines to be appropriate.

(d) **CONTRACT REQUIREMENTS.**—(1) The contract entered into under subsection (a) shall contain such terms and conditions as the Secretary may require. The contract shall require that the report on the study be submitted to the Secretary not later than 2 years after the date on which the contract was entered into.

(2) The report required under subsection (a) shall contain the findings and conclusions of the qualified entity on the study and specific recommendations to improve employment opportunities for veterans recently separated from service in the Armed Forces, including, if appropriate, recommendations for—

(A) the establishment of networks of contacts for employment of such veterans in the private sector;

(B) outreach to private sector leaders on the merits and sound business practice of hiring such veterans; and

(C) additional methods to facilitate communication between private sector employers and such veterans who are seeking employment.

(e) **FUNDING.**—Payment by the Secretary for the contract entered into under subsection (a)—

(1) shall be made from the Department of Veterans Affairs appropriations account from which payments for readjustment benefits are made; and

(2) may not exceed \$490,000.

(f) **DEFINITIONS.**—In this section:

(1) The term “qualified entity” means an entity or organization that meets the following requirements:

(A) Demonstrated experience in conducting employment surveys of recently separated servicemembers, including Internet-based surveys, that meet such quality assurance requirements as the Secretary determines appropriate.

(B) Demonstrated familiarity with veteran employment matters.

(C) Demonstrated ability in developing plans to market veterans as employment assets.

(D) Demonstrated ability to acquire services at no cost from other organizations, such as technology, staff services, and advertising services.

(E) Demonstrated ability to develop relationships, establish employment networks, and facilitate interaction between private and public sector leaders and veterans.

(2) The term “employment history” means, with respect to a recently separated servicemember, training, placement, retention, and advancement in employment of that servicemember.

(3) The term “recently separated servicemember” means any veteran (as defined in section 101(2) of title 38, United States Code) discharged or released from active duty in the Armed Forces of the United States during the 16-year period beginning on January 1, 1990.

TITLE III—BENEFITS MATTERS

SEC. 301. ADDITIONAL DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN.

(a) **ADDITIONAL DEPENDENCY AND INDEMNITY COMPENSATION.**—Section 1311 is amended by adding at the end the following new subsection:

“(e)(1) Subject to paragraphs (2) and (3), if there is a surviving spouse with one or more children below the age of 18, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by \$250, regardless of the number of such children.

“(2) Dependency and indemnity compensation shall be increased under this subsection only for months occurring during the two-year period beginning on the date on which entitlement to dependency and indemnity compensation commenced.

“(3) The increase in dependency and indemnity compensation of a surviving spouse under this subsection shall cease beginning with the first month commencing after the month in which all children of the surviving spouse have attained the age of 18.

“(4) Dependency and indemnity compensation under this subsection is in addition to any other dependency and indemnity compensation payable under this chapter.”.

(b) **EFFECTIVE DATE.**—Subsection (e) of section 1311 of title 38, United States Code, as added by subsection (a), shall take effect with respect to payments for the first month beginning after the date of the enactment of this Act.

SEC. 302. OFFSET OF VETERANS' DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION FROM AWARDS UNDER RADIATION EXPOSURE COMPENSATION PROGRAM.

(a) **OFFSET IN LIEU OF FORFEITURE FROM DISABILITY COMPENSATION.**—Subsection (c) of section 1112 is amended by adding at the end the following new paragraph:

“(4) A radiation-exposed veteran who receives a payment under the provisions of the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note) shall not be deprived, by reason of the receipt of that payment, of receipt of compensation to which that veteran is entitled by reason of paragraph (1), but there shall be deducted from payment of such compensation the amount of the payment under that Act.”.

(b) **OFFSET IN LIEU OF FORFEITURE FROM DEPENDENCY AND INDEMNITY COMPENSATION.**—Section 1310 is amended by adding at the end the following new paragraph:

“(c) A person who receives a payment under the provisions of the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note) shall not be deprived, by reason of the receipt of that payment, of receipt of dependency and indemnity compensation to which that person is otherwise entitled, but there shall be deducted from payment of such dependency and indemnity compensation the amount of the payment under that Act.”.

(c) **EFFECTIVE DATE.**—Paragraph (4) of section 1112(c) of title 38, United States Code, as added by subsection (a), shall take effect with respect to compensation payments for months beginning

after March 26, 2002. Subsection (c) of section 1310 of such title, as added by subsection (b), shall take effect with respect to dependency and indemnity compensation payments for months beginning after March 26, 2002.

SEC. 303. EXCLUSION OF LIFE INSURANCE PROCEEDS FROM CONSIDERATION AS INCOME FOR VETERANS' PENSION PURPOSES.

Section 1503(a) is amended—

- (1) by striking “and” at the end of paragraph (9);
- (2) by striking the period at the end of the paragraph (10) and inserting “; and”; and
- (3) by adding at the end the following new paragraph:
“(11) lump-sum proceeds of any life insurance policy on a veteran, for purposes of pension under subchapter III of this chapter.”.

SEC. 304. CERTAIN SERVICE-CONNECTED DISABILITY BENEFITS AUTHORIZED FOR PERSONS DISABLED BY TREATMENT OR VOCATIONAL REHABILITATION PROVIDED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) **AUTHORIZED BENEFITS.**—Section 1151 is amended by adding at the end the following new subsection:

“(c) A qualifying additional disability under this section shall be treated in the same manner as if it were a service-connected disability for purposes of the following provisions of this title:

- “(1) Chapter 21, relating to specially adapted housing.
- “(2) Chapter 39, relating to automobiles and adaptive equipment.”.

(b) **EFFECTIVE DATE.**—Subsection (c) of section 1151 of title 38, United States Code, as added by subsection (a), shall apply with respect to eligibility for benefits and services provided by the Secretary of Veterans Affairs on or after the date of the enactment of this Act.

(c) **ADMINISTRATION OF OFFSET PROVISION.**—Subsection (b) of section 1151 is amended—

- (1) by inserting “(1)” after “(b)”;
- (2) by inserting “(except as otherwise provided in paragraph (2))” after “service-connected, then”; and
- (3) by adding at the end the following new paragraph:
“(2) In the case of a judgment, settlement, or compromise covered by paragraph (1) that becomes final on or after the date of the enactment of this paragraph and that includes an amount that is specifically designated for a purpose for which benefits are provided under chapter 21 or 39 of this title (hereinafter in this paragraph referred to as the ‘offset amount’), if such judgment, settlement, or compromise becomes final before the date of the award of benefits under chapter 21 or 39 for the purpose for which the offset amount was specifically designated—

“(A) the amount of such award shall be reduced by the offset amount; and

“(B) if the offset amount is greater than the amount of such award, the excess amount received pursuant to the judgment, settlement or compromise, shall be offset against benefits otherwise payable under this chapter.”.

SEC. 305. EFFECTIVE DATE OF DEATH PENSION.

Section 5110(d) is amended—

- (1) by striking “(1)”;

(2) by striking “death compensation or dependency and indemnity compensation” and inserting “death compensation, dependency and indemnity compensation, or death pension”; and

(3) by striking paragraph (2).

SEC. 306. CODIFICATION OF ADMINISTRATIVE ACTIONS RELATING TO PRESUMPTIONS OF SERVICE CONNECTION FOR VETERANS EXPOSED TO IONIZING RADIATION.

(a) COVERED DISEASES.—Subsection (c)(2) of section 1112 is amended by adding at the end the following new subparagraphs:

- “(Q) Cancer of the bone.
- “(R) Cancer of the brain.
- “(S) Cancer of the colon.
- “(T) Cancer of the lung.
- “(U) Cancer of the ovary.”.

(b) COVERED RADIATION-RISK ACTIVITIES.—Subsection (c)(3)(B) of such section is amended by adding at the end the following new clause:

- “(iv) Service in a capacity which, if performed as an employee of the Department of Energy, would qualify the individual for inclusion as a member of the Special Exposure Cohort under section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l(14)).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of March 26, 2002.

SEC. 307. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 108-47.

(a) VETERANS’ DISABILITY COMPENSATION.—Section 1114 is amended—

- (1) by striking “\$104” in subsection (a) and inserting “\$106”;
- (2) by striking “\$201” in subsection (b) and inserting “\$205”;
- (3) by striking “\$310” in subsection (c) and inserting “\$316”;
- (4) by striking “\$445” in subsection (d) and inserting “\$454”;
- (5) by striking “\$633” in subsection (e) and inserting “\$646”;
- (6) by striking “\$801” in subsection (f) and inserting “\$817”;
- (7) by striking “\$1,008” in subsection (g) and inserting “\$1,029”;
- (8) by striking “\$1,171” in subsection (h) and inserting “\$1,195”;
- (9) by striking “\$1,317” in subsection (i) and inserting “\$1,344”;
- (10) by striking “\$2,193” in subsection (j) and inserting “\$2,239”;
- (11) in subsection (k)—
 - (A) by striking “\$81” both places it appears and inserting “\$82”; and
 - (B) by striking “\$2,728” and “\$3,827” and inserting “\$2,785” and “\$3,907”, respectively;
- (12) by striking “\$2,728” in subsection (l) and inserting “\$2,785”;
- (13) by striking “\$3,010” in subsection (m) and inserting “\$3,073”;
- (14) by striking “\$3,425” in subsection (n) and inserting “\$3,496”;

(15) by striking “\$3,827” each place it appears in subsections (o) and (p) and inserting “\$3,907”;

(16) by striking “\$1,643” and “\$2,446” in subsection (r) and inserting “\$1,677” and “\$2,497”, respectively; and

(17) by striking “\$2,455” in subsection (s) and inserting “\$2,506”.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) is amended—

(1) by striking “\$125” in subparagraph (A) and inserting “\$127”;

(2) by striking “\$215” and “\$64” in subparagraph (B) and inserting “\$219” and “\$65”, respectively;

(3) by striking “\$85” and “\$64” in subparagraph (C) and inserting “\$86” and “\$65”, respectively;

(4) by striking “\$101” in subparagraph (D) and inserting “\$103”;

(5) by striking “\$237” in subparagraph (E) and inserting “\$241”; and

(6) by striking “\$198” in subparagraph (F) and inserting “\$202”.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 is amended by striking “\$588” and inserting “\$600”.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—(1) Section 1311(a) is amended—

(A) by striking “\$948” in paragraph (1) and inserting “\$967”; and

(B) by striking “\$204” in paragraph (2) and inserting “\$208”.

(2) The table in section 1311(a)(3) is amended to read as follows:

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$967	W-4	\$1,157
E-2	\$967	O-1	\$1,022
E-3	\$967	O-2	\$1,056
E-4	\$967	O-3	\$1,130
E-5	\$967	O-4	\$1,195
E-6	\$967	O-5	\$1,316
E-7	\$1,000	O-6	\$1,483
E-8	\$1,056	O-7	\$1,602
E-9	\$1,102 ¹	O-8	\$1,758
W-1	\$1,022	O-9	\$1,881
W-2	\$1,063	O-10	\$2,063 ²
W-3	\$1,094

¹ If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$1,189.

² If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$2,213.

(3) Section 1311(b) is amended by striking “\$237” and inserting “\$241”.

(4) Section 1311(c) is amended by striking “\$237” and inserting “\$241”.

(5) Section 1311(d) is amended by striking “\$113” and inserting “\$115”.

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—(1) Section 1313(a) is amended—

(A) by striking “\$402” in paragraph (1) and inserting “\$410”;

(B) by striking “\$578” in paragraph (2) and inserting “\$590”;

(C) by striking “\$752” in paragraph (3) and inserting “\$767”; and

(D) by striking “\$752” and “\$145” in paragraph (4) and inserting “\$767” and “\$148”, respectively.

(2) Section 1314 is amended—

(A) by striking “\$237” in subsection (a) and inserting “\$241”;

(B) by striking “\$402” in subsection (b) and inserting “\$410”; and

(C) by striking “\$201” in subsection (c) and inserting “\$205”.

SEC. 308. CROSS-REFERENCE AMENDMENTS RELATING TO CONCURRENT PAYMENT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.

(a) PROHIBITION AGAINST DUPLICATION OF BENEFITS.—Section 5304(a)(1) is amended by inserting “as provided in section 1414 of title 10 or” after “Except”.

(b) WAIVER OF RETIRED PAY.—Section 5305 is amended by striking “Any” in the first sentence and inserting “Except as provided in section 1414 of title 10, any”.

TITLE IV—HOUSING MATTERS

SEC. 401. AUTHORITY TO PROVIDE SPECIALLY ADAPTED HOUSING TO CERTAIN DISABLED VETERANS.

The text of section 2101 is amended to read as follows:

“(a) ACQUISITION OF HOUSING WITH SPECIAL FEATURES.—(1) Subject to paragraph (3), the Secretary may assist a disabled veteran described in paragraph (2) in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran’s disability, and necessary land therefor.

“(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets any of the following criteria:

“(A) The disability is due to the loss, or loss of use, of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

“(B) The disability is due to—

“(i) blindness in both eyes, having only light perception, plus

“(ii) loss or loss of use of one lower extremity.

“(C) The disability is due to the loss or loss of use of one lower extremity together with—

“(i) residuals of organic disease or injury; or

“(ii) the loss or loss of use of one upper extremity, which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

“(D) The disability is due to the loss, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbows.

“(3) The regulations prescribed under subsection (c) shall require that assistance under paragraph (1) may be provided to a veteran only if the Secretary finds that—

“(A) it is medically feasible for the veteran to reside in the proposed housing unit and in the proposed locality;

“(B) the proposed housing unit bears a proper relation to the veteran’s present and anticipated income and expenses; and

“(C) the nature and condition of the proposed housing unit are such as to be suitable to the veteran’s needs for dwelling purposes.

“(b) ADAPTATIONS TO RESIDENCE OF VETERAN.—(1) Subject to paragraph (3), the Secretary shall assist any disabled veteran described in paragraph (2) (other than a veteran who is eligible for assistance under subsection (a))—

“(A) in acquiring such adaptations to such veteran’s residence as are determined by the Secretary to be reasonably necessary because of such disability; or

“(B) in acquiring a residence already adapted with special features determined by the Secretary to be reasonably necessary for the veteran because of such disability.

“(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets either of the following criteria:

“(A) The disability is due to blindness in both eyes with 5/200 visual acuity or less.

“(B) The disability includes the anatomical loss or loss of use of both hands.

“(3) Assistance under paragraph (1) may be provided only to a veteran who the Secretary determines—

“(A) is residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran’s family; or

“(B) if the veteran’s residence is to be constructed or purchased, will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran’s family.

“(c) REGULATIONS.—Assistance under this section shall be provided in accordance with such regulations as the Secretary may prescribe.”

SEC. 402. TRANSITIONAL HOUSING AMENDMENTS.

(a) USE OF VETERAN VOLUNTEERS.—Section 2051 is amended by adding at the end the following new subsection:

“(g) Notwithstanding any other provision of law, a multifamily transitional housing project that is funded by a loan guaranteed under this subchapter may accept uncompensated voluntary services performed by any eligible entity (as that term is defined in

section 2011(d) of this title) in connection with the construction, alteration, or repair of such project.”

(b) **AUTHORIZATION FOR COMMERCIALY-LEASED SPACE.**—Section 2052(c)(1) is amended by striking “services” and inserting “services, other commercial activities,”

SEC. 403. INCREASE IN MAXIMUM AMOUNT OF HOME LOAN GUARANTY FOR CONSTRUCTION AND PURCHASE OF HOMES AND ANNUAL INDEXING OF AMOUNT.

(a) **MAXIMUM LOAN GUARANTY BASED ON 100 PERCENT OF FREDDIE MAC CONFORMING LOAN RATE.**—Section 3703(a)(1) is amended by striking “\$60,000” each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting “the maximum guaranty amount (as defined in subparagraph (C))”.

(b) **DEFINITION.**—Such section is further amended by adding at the end the following new subparagraph:

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

SEC. 404. EXTENSION OF AUTHORITY FOR GUARANTEE OF ADJUSTABLE RATE MORTGAGES.

Section 3707(a) is amended by striking “during fiscal years 1993, 1994, and 1995” and inserting “during fiscal years 1993 through 2008”.

SEC. 405. EXTENSION AND IMPROVEMENT OF AUTHORITY FOR GUARANTEE OF HYBRID ADJUSTABLE RATE MORTGAGES.

(a) **EXTENSION OF AUTHORITY.**—Subsection (a) of section 3707A is amended by striking “during fiscal years 2004 and 2005” and inserting “during fiscal years 2004 through 2008”.

(b) **MODIFICATION OF INTEREST RATE ADJUSTMENT REQUIREMENTS.**—Subsection (c) of such section is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by striking paragraph (3) and inserting the following new paragraphs:

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

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

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

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

(3) in paragraph (5), as so redesignated, by striking “5 percentage points” and all that follows and inserting “such number of percentage points as the Secretary shall prescribe for purposes of this section.”

(c) **NO EFFECT ON GUARANTEE OF LOANS UNDER HYBRID ADJUSTABLE RATE MORTGAGE GUARANTEE DEMONSTRATION**

PROJECT.—The amendments made by this section shall not be construed to affect the force or validity of any guarantee of a loan made by the Secretary of Veterans Affairs under the demonstration project for the guarantee of hybrid adjustable rate mortgages under section 3707A of title 38, United States Code, as in effect on the day before the date of the enactment of this Act.

SEC. 406. TERMINATION OF COLLECTION OF LOAN FEES FROM VETERANS RATED ELIGIBLE FOR COMPENSATION AT PRE-DISCHARGE RATING EXAMINATIONS.

Section 3729(c) is amended—

(1) by inserting “(1)” before “A fee”; and

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

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

SEC. 407. THREE-YEAR EXTENSION OF NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM.

Section 3761(c) is amended by striking “December 31, 2005” and inserting “December 31, 2008”.

TITLE V—MATTERS RELATING TO FIDUCIARIES

SEC. 501. DEFINITION OF FIDUCIARY.

(a) IN GENERAL.—(1) Chapter 55 is amended by adding at the end the following new section:

“§ 5506. Definition of ‘fiduciary’

“For purposes of this chapter and chapter 61 of this title, the term ‘fiduciary’ means—

“(1) a person who is a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant (or a claimant’s estate) or of a beneficiary (or a beneficiary’s estate); or

“(2) any other person having been appointed in a representative capacity to receive money paid under any of the laws administered by the Secretary for the use and benefit of a minor, incompetent, or other beneficiary.”.

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

“5506. Definition of ‘fiduciary’.”.

(b) CONFORMING AMENDMENTS TO SECTION 5502.—Section 5502 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “other person” and inserting “other fiduciary”; and

(B) in the second sentence of paragraph (2), by inserting “for benefits under this title” after “in connection with rendering fiduciary services”;

(2) in subsection (b), by striking “guardian, curator, conservator, or other person” each place it appears and inserting “fiduciary”; and

(3) in subsection (d), by striking “guardian, curator, or conservator” and inserting “fiduciary”.

(c) CONFORMING AMENDMENT TO SECTION 6101.—Section 6101(a) is amended by striking “guardian, curator,” and all that follows through “beneficiary,” and inserting “fiduciary (as defined in section 5506 of this title) for the benefit of a minor, incompetent, or other beneficiary under laws administered by the Secretary.”.

SEC. 502. INQUIRY, INVESTIGATIONS, AND QUALIFICATION OF FIDUCIARIES.

(a) IN GENERAL.—Chapter 55, as amended by section 501(a)(1), is further amended by adding at the end the following new section:

“§ 5507. Inquiry, investigations, and qualification of fiduciaries

“(a) Any certification of a person for payment of benefits of a beneficiary to that person as such beneficiary’s fiduciary under section 5502 of this title shall be made on the basis of—

“(1) an inquiry or investigation by the Secretary of the fitness of that person to serve as fiduciary for that beneficiary, such inquiry or investigation—

“(A) to be conducted in advance of such certification;

“(B) to the extent practicable, to include a face-to-face interview with such person; and

“(C) to the extent practicable, to include a copy of a credit report for such person issued within one year of the date of the proposed appointment;

“(2) adequate evidence that certification of that person as fiduciary for that beneficiary is in the interest of such beneficiary (as determined by the Secretary under regulations); and

“(3) the furnishing of any bond that may be required by the Secretary.

“(b) As part of any inquiry or investigation of any person under subsection (a), the Secretary shall request information concerning whether that person has been convicted of any offense under Federal or State law which resulted in imprisonment for more than one year. If that person has been convicted of such an offense, the Secretary may certify the person as a fiduciary only if the Secretary finds that the person is an appropriate person to act as fiduciary for the beneficiary concerned under the circumstances.

“(c)(1) In the case of a proposed fiduciary described in paragraph (2), the Secretary, in conducting an inquiry or investigation under subsection (a)(1), may carry out such inquiry or investigation on an expedited basis that may include waiver of any specific requirement relating to such inquiry or investigation, including the otherwise applicable provisions of subparagraphs (A), (B), and (C) of such subsection. Any such inquiry or investigation carried out on such an expedited basis shall be carried out under regulations prescribed for purposes of this section.

“(2) Paragraph (1) applies with respect to a proposed fiduciary who is—

“(A) the parent (natural, adopted, or stepparent) of a beneficiary who is a minor;

“(B) the spouse or parent of an incompetent beneficiary;

“(C) a person who has been appointed a fiduciary of the beneficiary by a court of competent jurisdiction; or

“(D) being appointed to manage an estate where the annual amount of veterans benefits to be managed by the proposed fiduciary does not exceed \$3,600, as adjusted pursuant to section 5312 of this title.

“(d) TEMPORARY FIDUCIARIES.—When in the opinion of the Secretary, a temporary fiduciary is needed in order to protect the assets of the beneficiary while a determination of incompetency is being made or appealed or a fiduciary is appealing a determination of misuse, the Secretary may appoint one or more temporary fiduciaries for a period not to exceed 120 days. If a final decision has not been made within 120 days, the Secretary may not continue the appointment of the fiduciary without obtaining a court order for appointment of a guardian, conservator, or other fiduciary under the authority provided in section 5502(b) of this title.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item added by section 501(a)(2) the following new item:

“5507. Inquiry, investigations, and qualification of fiduciaries.”

SEC. 503. MISUSE OF BENEFITS BY FIDUCIARIES.

(a) PROTECTION OF VETERANS BENEFITS WHEN ADMINISTERED BY FIDUCIARIES.—(1) Chapter 61 is amended by adding at the end the following new sections:

“§ 6106. Misuse of benefits by fiduciaries

“(a) FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY FIDUCIARIES.—A fiduciary may not collect a fee from a beneficiary for any month with respect to which the Secretary or a court of competent jurisdiction has determined that the fiduciary misused all or part of the individual’s benefit, and any amount so collected by the fiduciary as a fee for such month shall be treated as a misused part of the individual’s benefit.

“(b) MISUSE OF BENEFITS DEFINED.—For purposes of this chapter, misuse of benefits by a fiduciary occurs in any case in which the fiduciary receives payment, under any of laws administered by the Secretary, for the use and benefit of a beneficiary and uses such payment, or any part thereof, for a use other than for the use and benefit of such beneficiary or that beneficiary’s dependents. Retention by a fiduciary of an amount of a benefit payment as a fiduciary fee or commission, or as attorney’s fees (including expenses) and court costs, if authorized by the Secretary or a court of competent jurisdiction, shall be considered to be for the use or benefit of such beneficiary.

“(c) REGULATIONS.—The Secretary may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this section.

“§ 6107. Reissuance of benefits

“(a) NEGLIGENT FAILURE BY SECRETARY.—(1) In any case in which the negligent failure of the Secretary to investigate or monitor a fiduciary results in misuse of benefits by the fiduciary, the Secretary shall pay to the beneficiary or the beneficiary’s successor

fiduciary an amount equal to the amount of benefits that were so misused.

“(2) There shall be considered to have been a negligent failure by the Secretary to investigate and monitor a fiduciary in the following cases:

“(A) A case in which the Secretary failed to review a fiduciary’s accounting within 60 days of the date on which that accounting is scheduled for review.

“(B) A case in which the Secretary was notified of allegations of misuse, but failed to act within 60 days of the date of such notification to terminate the fiduciary.

“(C) In any other case in which actual negligence is shown.

“(b) REISSUANCE OF MISUSED BENEFITS IN OTHER CASES.—(1) In any case in which a fiduciary described in paragraph (2) misuses all or part of an individual’s benefit paid to such fiduciary, the Secretary shall pay to the beneficiary or the beneficiary’s successor fiduciary an amount equal to the amount of such benefit so misused.

“(2) Paragraph (1) applies to a fiduciary that—

“(A) is not an individual; or

“(B) is an individual who, for any month during a period when misuse occurs, serves 10 or more individuals who are beneficiaries under this title.

“(3) In any other case in which the Secretary obtains recoupment from a fiduciary who has misused benefits, the Secretary shall promptly remit payment of the recouped amounts to the beneficiary or the beneficiary’s successor fiduciary as the case may be.

“(c) LIMITATION ON TOTAL AMOUNT PAID.—The total of the amounts paid to a beneficiary (or a beneficiary’s successor fiduciary) under this section may not exceed the total benefit amount misused by the fiduciary with respect to that beneficiary.

“(d) RECOUPMENT OF AMOUNTS REISSUED.—In any case in which the Secretary reissues a benefit payment (in whole or in part) under subsection (a) or (b), the Secretary shall make a good faith effort to obtain recoupment from the fiduciary to whom the payment was originally made.”

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

“6106. Misuse of benefits by fiduciaries.

“6107. Reissuance of benefits.”

SEC. 504. ADDITIONAL PROTECTIONS FOR BENEFICIARIES WITH FIDUCIARIES.

(a) ONSITE REVIEWS AND REQUIRED ACCOUNTINGS.—(1) Chapter 55, as amended by section 502(a), is further amended by adding at the end the following new sections:

“§ 5508. Periodic onsite reviews of institutional fiduciaries

“In addition to such other reviews of fiduciaries as the Secretary may otherwise conduct, the Secretary shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under laws administered by the Secretary to another individual pursuant to the appointment of such person or agency as a fiduciary under section 5502(a)(1) of this title in any case in which the fiduciary is serving in that capacity with respect to more than 20 beneficiaries and the total

annual amount of such benefits exceeds \$50,000, as adjusted pursuant to section 5312 of this title.

“§ 5509. Authority to require fiduciary to receive payments at regional offices of the Department when failing to provide required accounting

“(a) REQUIRED REPORTS AND ACCOUNTINGS.—The Secretary may require a fiduciary to file a report or accounting pursuant to regulations prescribed by the Secretary.

“(b) ACTIONS UPON FAILURE TO FILE.—In any case in which a fiduciary fails to submit a report or accounting required by the Secretary under subsection (a), the Secretary may, after furnishing notice to such fiduciary and the beneficiary entitled to such payment of benefits, require that such fiduciary appear in person at a regional office of the Department serving the area in which the beneficiary resides in order to receive such payments.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item added by section 502(b) the following new items:

“5508. Periodic onsite reviews of institutional fiduciaries.

“5509. Authority to require fiduciary to receive payments at regional offices of the Department when failing to provide required accounting.”.

(b) JUDICIAL ORDERS OF RESTITUTION.—(1) Chapter 61, as amended by section 503(a), is further amended by adding at the end the following new section:

“§ 6108. Authority for judicial orders of restitution

“(a) Any Federal court, when sentencing a defendant convicted of an offense arising from the misuse of benefits under this title, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Department.

“(b) Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforcement of orders of restitution under subsection (a). In so applying those sections, the Department shall be considered the victim.

“(c) If the court does not order restitution, or orders only partial restitution, under subsection (a), the court shall state on the record the reasons therefor.

“(d) Amounts received in connection with misuse by a fiduciary of funds paid as benefits under laws administered by the Secretary shall be paid to the individual whose benefits were misused. If the Secretary has previously reissued the misused benefits, the amounts shall be treated in the same manner as overpayments recouped by the Secretary and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item added by section 503(b) the following new item:

“6108. Authority for judicial orders of restitution.”.

SEC. 505. ANNUAL REPORT.

(a) IN GENERAL.—Chapter 55, as amended by section 504(a)(1), is further amended by adding at the end the following new section:

“§ 5510. Annual report

“The Secretary shall include in the Annual Benefits Report of the Veterans Benefits Administration or the Secretary’s Annual

Performance and Accountability Report information concerning fiduciaries who have been appointed to receive payments for beneficiaries of the Department. As part of such information, the Secretary shall separately set forth the following: —

“(1) The number of beneficiaries in each category (veteran, surviving spouse, child, adult disabled child, or parent).

“(2) The types of benefit being paid (compensation, pension, dependency and indemnity compensation, death pension or benefits payable to a disabled child under chapter 18 of this title).

“(3) The total annual amounts and average annual amounts of benefits paid to fiduciaries for each category and type of benefit.

“(4) The number of fiduciaries who are the spouse, parent, legal custodian, court-appointed fiduciary, institutional fiduciary, custodian in fact, and supervised direct payees.

“(5) The number of cases in which the fiduciary was changed by the Secretary because of a finding that benefits had been misused.

“(6) How such cases of misuse of benefits were addressed by the Secretary.

“(7) The final disposition of such cases of misuse of benefits, including the number and dollar amount of any benefits reissued to beneficiaries.

“(8) The number of fiduciary cases referred to the Office of the Inspector General and the nature of the actions taken by the Inspector General.

“(9) The total amount of money recovered by the government in cases arising from the misuse of benefits by a fiduciary.

“(10) Such other information as the Secretary considers appropriate.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the items added by the amendment made by section 504(a)(2) the following new item:

“5510. Annual report.”

SEC. 506. ANNUAL ADJUSTMENT IN BENEFITS THRESHOLDS.

Section 5312(b)(1) is amended by inserting “and the annual benefit amount limitations under sections 5507(c)(2)(D) and 5508 of this title,” after “(d)(3) of such section,”.

SEC. 507. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, this title and the amendments made by this title shall take effect on the first day of the seventh month beginning after the date of the enactment of this Act.

(b) SPECIAL RULES.—(1) Section 5510 of title 38, United States Code, as added by section 505(a), shall take effect on the date of the enactment of this Act.

(2) Sections 6106 and 6107 of title 38, United States Code, as added by section 503(a), shall apply with respect to any determinations by the Secretary of Veterans Affairs made after the date of the enactment of this Act of misuse of funds by a fiduciary.

TITLE VI—MEMORIAL AFFAIRS MATTERS

SEC. 601. DESIGNATION OF PRISONER OF WAR/MISSING IN ACTION NATIONAL MEMORIAL, RIVERSIDE NATIONAL CEMETERY, RIVERSIDE, CALIFORNIA.

(a) DESIGNATION.—The memorial to former prisoners of war and members of the Armed Forces listed as missing in action that is under construction at Riverside National Cemetery in Riverside, California, is hereby designated: “Prisoner of War/Missing in Action National Memorial”.

(b) EFFECT OF DESIGNATION.—Such national memorial designated by subsection (a) is not a unit of the National Park System, and the designation of the national memorial shall not be construed to require Federal funds to be expended for any purpose related to the national memorial.

SEC. 602. LEASE OF CERTAIN NATIONAL CEMETERY ADMINISTRATION PROPERTY.

(a) IN GENERAL.—Chapter 24 is amended by adding at the end the following new section:

“§ 2412. Lease of land and buildings

“(a) LEASE AUTHORIZED.—The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration.

“(b) TERM.—The term of a lease under subsection (a) may not exceed 10 years.

“(c) LEASE TO PUBLIC OR NONPROFIT ORGANIZATIONS.—(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).

“(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all of the consideration for the lease.

“(d) NOTICE.—Before entering into a lease under subsection (a), the Secretary shall give appropriate public notice of the intention of the Secretary to enter into the lease in a newspaper of general circulation in the community in which the lands or buildings concerned are located.

“(e) NATIONAL CEMETERY ADMINISTRATION FACILITIES OPERATION FUND.—(1) There is established on the book of the Treasury an account to be known as the ‘National Cemetery Administration Facilities Operation Fund’ (in this section referred to as the ‘Fund’).

“(2) The Fund shall consist of the following:

“(A) Proceeds from the lease of land or buildings under this section.

“(B) Proceeds of agricultural licenses of lands of the National Cemetery Administration.

“(C) Any other amounts appropriated to or otherwise authorized for deposit in the Fund by law.

“(3) Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration.

“(4) Amounts in the Fund shall remain available until expended.”.

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

“2412. Lease of land and buildings.”.

SEC. 603. EXCHANGES OF REAL PROPERTY FOR NATIONAL CEMETERIES.

Section 2406 is amended by inserting “exchange,” after “agencies,”.

**TITLE VII—IMPROVEMENTS TO
SERVICEMEMBERS CIVIL RELIEF ACT**

SEC. 701. CLARIFICATION OF MEANING OF “JUDGMENT” AS USED IN THE ACT.

Section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511) is amended by adding at the end the following new paragraph:

“(9) JUDGMENT.—The term ‘judgment’ means any judgment, decree, order, or ruling, final or temporary.”.

SEC. 702. REQUIREMENTS RELATING TO WAIVER OF RIGHTS UNDER THE ACT.

Section 107 of the Servicemembers Civil Relief Act (50 U.S.C. App. 517) is amended—

(1) in subsection (a), by inserting after the first sentence the following new sentence: “Any such waiver that applies to an action listed in subsection (b) of this section is effective only if it is in writing and is executed as an instrument separate from the obligation or liability to which it applies.”;

(2) by redesignating subsection (c) as subsection (d); and

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

“(c) PROMINENT DISPLAY OF CERTAIN CONTRACT RIGHTS WAIVERS.—Any waiver in writing of a right or protection provided by this Act that applies to a contract, lease, or similar legal instrument must be in at least 12 point type.”.

SEC. 703. RIGHT OF SERVICEMEMBER PLAINTIFFS TO REQUEST STAY OF CIVIL PROCEEDINGS.

Section 202(a) of the Servicemembers Civil Relief Act (50 U.S.C. App. 522(a)) is amended by inserting “plaintiff or” before “defendant”.

SEC. 704. TERMINATION OF LEASES.

(a) JOINT LEASES.—Subsection (a) of section 305 of the Servicemembers Civil Relief Act (50 U.S.C. App. 535) is amended to read as follows:

“(a) TERMINATION BY LESSEE.—

“(1) IN GENERAL.—The lessee on a lease described in subsection (b) may, at the lessee’s option, terminate the lease at any time after—

“(A) the lessee’s entry into military service; or

“(B) the date of the lessee’s military orders described in paragraph (1)(B) or (2)(B) of subsection (b), as the case may be.

“(2) JOINT LEASES.—A lessee’s termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.”.

(b) MOTOR VEHICLES LEASES.—

(1) APPLICABILITY TO PCS ORDERS FROM STATES OUTSIDE CONUS.—Subparagraph (B) of subsection (b)(2) of such section is amended by striking “military orders for” and all that follows through “or to deploy” and inserting “military orders—

“(i) for a change of permanent station—

“(I) from a location in the continental United States to a location outside the continental United States; or

“(II) from a location in a State outside the continental United States to any location outside that State; or

“(ii) to deploy”.

(2) DEFINITIONS.—Such section is further amended by adding at the end the following new subsection:

“(i) DEFINITIONS.—

“(1) MILITARY ORDERS.—The term ‘military orders’, with respect to a servicemember, means official military orders, or any notification, certification, or verification from the servicemember’s commanding officer, with respect to the servicemember’s current or future military duty status.

“(2) CONUS.—The term ‘continental United States’ means the 48 contiguous States and the District of Columbia.”.

(c) COVERAGE OF INDIVIDUAL DEPLOYMENTS.—Subsection (b) of such section is further amended in paragraph (1)(B) and paragraph (2)(B)(ii) (as designated by subsection (b) of this section) by inserting “, or as an individual in support of a military operation,” after “deploy with a military unit”.

TITLE VIII—OTHER MATTERS

SEC. 801. PRINCIPAL OFFICE OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7255 is amended by striking “District of Columbia” and inserting “Washington, D.C., metropolitan area”.

SEC. 802. TECHNICAL AMENDMENTS RELATING TO THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) RESTORATION OF PRIOR PROVISION RELATING TO CHIEF JUDGE.—Section 7253(d)(1) is amended by inserting after “(1)” the following: “The chief judge of the Court is the head of the Court.”.

(b) CAPITALIZATION AMENDMENTS.—Section 7253(d)(4)(A) is amended by striking “court” in clauses (i) and (ii) and inserting “Court”.

(c) **DATE OF ENACTMENT REFERENCE.**—Section 7253(h)(4) is amended by striking “the date of the enactment of this subsection” and inserting “December 27, 2001.”

SEC. 803. EXTENSION OF BIENNIAL REPORT OF ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR.

Section 541(c)(1) is amended by striking “2003” and inserting “2009”.

SEC. 804. AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REDRESS FOR CERTAIN VETERANS DENIED OPPORTUNITY TO COMPETE FOR FEDERAL EMPLOYMENT.

(a) **ADMINISTRATIVE REDRESS.**—Section 3330a(a)(1) of title 5, United States Code, is amended—

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

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

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

(b) **JUDICIAL REDRESS.**—Section 3330b(a) is amended by inserting “, or a veteran described by section 3330a(a)(1)(B) with respect to a violation described by such section,” after “a preference eligible”.

SEC. 805. REPORT ON SERVICEMEMBERS’ AND VETERANS’ AWARENESS OF BENEFITS AND SERVICES AVAILABLE UNDER LAWS ADMINISTERED BY SECRETARY OF VETERANS AFFAIRS.

(a) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report setting forth a detailed description of (1) the outreach efforts of the Department of Veterans Affairs, as of the date of the enactment of this Act, to inform members of the uniformed services and veterans (and their family members and survivors) of the benefits and services to which they are entitled under laws administered by the Secretary, and (2) the current level of awareness of those members and veterans (and family members and survivors) of those benefits and services.

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

(1) A description of the outreach activities conducted by the Secretary in each of the three Administrations of the Department of Veterans Affairs and outreach activities conducted by other entities within the Department.

(2) The results of a national survey, conducted as described in subsection (c), to ascertain servicemembers’ and veterans’ level of awareness of benefits and services referred to in subsection (a) and whether servicemembers and veterans know how to access those benefits and services.

(3) Recommendations by the Secretary on how outreach and awareness activities to veterans and servicemembers may be improved.

(c) **CONDUCT OF SURVEY.**—The survey conducted for purposes of subsection (b)(2) shall be conducted in a manner to include a statistically valid sample of persons in each of the following groups:

(1) World War II veterans.

(2) Korean conflict era veterans.

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- (3) Vietnam era veterans.
- (4) Persian Gulf era veterans.
- (5) Active duty servicemembers.
- (6) National Guard and Reserve members activated under title 10, United States Code.
- (7) Family members and survivors.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*