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VETERANS EARN AND LEARN ACT OF 2004

JUNE 25, 2004.—Ordered to be printed

Mr. SMITH of New Jersey, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany H.R. 1716]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1716) to amend title 38, United States Code, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the "Veterans Earn and Learn Act of 2004".

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

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

TITLE I—EDUCATION MATTERS

Sec. 101. Findings.
Sec. 102. Modification of benefit entitlement charges for certain on-job training programs.
Sec. 103. Incentive payment for early completion of apprenticeship training.
Sec. 104. Increase in benefit for individuals pursuing apprenticeship or on–job training.
Sec. 105. Authority for competency-based apprenticeship programs.
Sec. 106. Pilot program to provide on-job benefits to train Department of Veterans Affairs' claims adjudicators.
Sec. 107. Requirement for coordination of data among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training.
Sec. 108. Technical and conforming amendments.

TITLE II—BENEFITS AND EMPLOYMENT MATTERS

Sec. 201. Codification of administrative actions relating to presumptions of service connection for veterans exposed to ionizing radiation.
Sec. 202. Offset of veterans' disability compensation and dependency and indemnity compensation from awards under radiation exposure compensation program.
Sec. 203. Exclusion of life insurance proceeds from consideration as income for veterans' pension purposes.
Sec. 204. Effective date of death pension.
Sec. 205. Certain service-connected disability benefits authorized for persons disabled by treatment or vocational rehabilitation provided by the Department of Veterans Affairs.
Sec. 206. Report of employment placement, retention, and advancement of recently separated servicemembers.

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TITLE III—HOUSING MATTERS

Sec. 301. Increase in, and annual indexing of, maximum amount of home loan guaranty for construction and purchase of homes.
Sec. 302. Authority to provide specially adapted housing to certain disabled veterans.
Sec. 303. Transitional housing amendments.

TITLE IV—MEMORIAL AFFAIRS MATTERS

Sec. 401. Eligibility of certain persons for burial in Arlington National Cemetery.
Sec. 402. Designation of Prisoner of War/Missing in Action National Memorial, Riverside National Cemetery, Riverside, California.

TITLE V—MISCELLANEOUS MATTERS

Sec. 501. Technical amendments relating to the United States Court of Appeals for Veterans Claims.
Sec. 502. Cross-reference amendments relating to concurrent payment of retired pay and veterans' disability compensation.

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—EDUCATION MATTERS

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) Educational assistance programs for veterans for apprenticeship and on-job training of the Department of Veterans Affairs assist employers to hire and retain skilled workers.

(2) These programs establish a link between training afforded to servicemembers while serving in the Armed Forces and training available in civilian settings for purposes of occupational licensing and credentialing.

(3) These programs develop a more highly educated and productive work force.

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) such training assistance allowance for the period of months involved, to

"(B) the applicable monthly educational assistance allowance payable to the individual for such period of months.

"(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 for purposes of chapter 34 of this title who is entitled, under chapter 30 or 34 of this title, as the case may be, to monthly educational assistance allowances payable under section 3015(e) of this title, or

"(B) an eligible person for purposes chapter 35 of this title, who is entitled, under section 3510 of this title, 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 on or after the date that is 1 year after the date of the enactment of this Act.

SEC. 103. INCENTIVE PAYMENT FOR EARLY COMPLETION OF APPRENTICESHIP TRAINING.

(a) MONTGOMERY GI BILL.—(1) Section 3032(c) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

"(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

"(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's entitlement under this chapter (and chapter 34 of this title, if applicable) shall be charged at the applicable rate under paragraph (3).".

(2) Paragraph (1) of such section is amended by striking "Except as provided in paragraph (2)" and inserting "Subject to the succeeding provisions".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—(1) Section 3233 is amended by adding at the end the following new subsection:

"(e)(1) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly benefit payment payable under this section for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(A) the total amount of monthly benefit payments that could have been paid to the individual under this section for the successful completion of that program, and

"(B) the amount of monthly benefit payments paid to the individual for the program under this section.

"(2) In the case of a lump sum payment paid to an individual under paragraph (1), the individual's entitlement under this chapter shall be charged at the applicable rate under subsections (c) and (d).".

(2) Subsection (a) of such section is amended by striking "Except as provided in subsection (b)" and inserting "Subject to the succeeding provisions".

(c) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3687, as amended by section 102, is further amended by adding at the end the following new subsection:

"(f)(1) In the case of an individual (as defined in subsection (e)(3)) who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(A) the total amount of educational assistance allowances that could have been paid to the individual under subsection (a) for the successful completion of that program, and

"(B) the amount of educational assistance allowance paid to the individual for the program under subsection (a).

"(2) In the case of a lump sum payment paid to an individual under paragraph (1), the entitlement of the individual under chapter 30, 34, or 35 of this title, as the case may be, shall be charged at the applicable rate under subsection (e).".

(d) SELECTED RESERVE MONTGOMERY GI BILL.—(1) Section 16131(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

"(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

"(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's entitlement under this chapter shall be charged at the applicable rate under paragraph (3).".

(2) Paragraph (1) of such section is amended by striking "Except as provided in paragraph (2)" and inserting "Subject to the succeeding provisions of this subsection".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to programs of training beginning on or after the date of the enactment of this Act and ending before October 1, 2010.

SEC. 104. INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON–JOB TRAINING.

(a) MONTGOMERY GI BILL.—Subsection (c)(1) of section 3032 is amended—

(1) by striking "75 percent" and inserting "85 percent" in subparagraph (A);

(2) by striking "55 percent" and inserting "65 percent" in subparagraph (B); and

(3) by striking "35 percent" and inserting "45 percent" in subparagraph (C).

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—Subsection (a) of section 3233 is amended—

(1) by striking "75 percent" and inserting "85 percent" in paragraph (1);

(2) by striking "55 percent" and inserting "65 percent" in paragraph (2); and

(3) by striking "35 percent" and inserting "45 percent" in paragraph (3).

(c) SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.—Subsection (b)(2) of section 3687 is amended by striking "$574 for the first six months, $429 for the second six months, $285 for the third six months," and inserting "$650 for the first six months, $507 for the second six months, $366 for the third six months,".

(d) SELECTED RESERVE MONTGOMERY GI BILL.—Subsection (d)(1) of section 16131 of title 10, United States Code, is amended—

(1) by striking "75 percent" and inserting "85 percent" in subparagraph (A);

(2) by striking "55 percent" and inserting "65 percent" in subparagraph (B); and

(3) by striking "35 percent" and inserting "45 percent" in subparagraph (C).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to months beginning on or after October 1, 2005, and before October 1, 2010.

SEC. 105. 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, 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 Secretary of Labor shall notify the Secretary upon the successful completion of a program of apprenticeship by a veteran, eligible veteran, or eligible person, 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 such assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.".

(c) ON-JOB TRAINING.—Section 3677 is amended by adding at the end the following new subsection:

"(d)(1) The sponsor of any program of training on the job shall submit notice to the Secretary upon the successful completion of the program by the veteran, eligible veteran, or eligible person, as the case may be.

"(2) The term 'training on the job' includes training commonly referred to as 'on-job learning'.".

(d) 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, 103, and 104.

SEC. 106. PILOT PROGRAM TO PROVIDE ON-JOB BENEFITS TO TRAIN DEPARTMENT OF VETERANS AFFAIRS' CLAIMS ADJUDICATORS.

Section 3677, as amended by section 105(c), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall conduct a pilot program under which, the Secretary shall operate 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) Amounts of educational assistance, monthly benefit payments, and training assistance allowance under chapters 30, 31, 32, 34, and 35 of this title, as the case may be, shall be payable to such employees during each month of training under the program.

"(3)(A) Not later than 3 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.

"(4) The pilot project shall terminate 5 years after the date of the implementation of the project.".

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. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITION OF TRAINING ESTABLISHMENT.—Section 3452(e) is amended by striking "or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.)," and inserting "any State board of vocational education, any Federal or State apprenticeship registration agency, any joint apprenticeship committee established pursuant to the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.),".

(b) CLARIFICATION OF APPLICABLE APPRENTICESHIP STANDARDS.—(1) Section 3672(c)(1), 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).

TITLE II—BENEFITS AND EMPLOYMENT MATTERS

SEC. 201. 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. 202. 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. 203. 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. 204. 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. 205. 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 31, relating to vocational rehabilitation.

"(3) 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 such section 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 any case in which an amount of a judgment, settlement, or compromise covered by paragraph (1) is specifically designated for a benefit other than as compensation for loss of earning capacity or for pain and suffering, such amount shall be offset under paragraph (1) only against the comparable benefit provided under this title (if any). Any amounts attributable to pain and suffering, loss of earnings capacity, or loss of consortium or society shall be offset against benefits otherwise payable under this chapter, and any amounts attributable to wrongful death shall be offset against benefits otherwise payable under chapter 13 of this title.".

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall apply with respect to any judgment, settlement, or compromise covered by section 1151(b) of title 38, United States Code, that becomes final on or after the date of the enactment of this Act.

SEC. 206. REPORT OF EMPLOYMENT PLACEMENT, RETENTION, AND ADVANCEMENT OF RECENTLY SEPARATED SERVICEMEMBERS.

(a) CONTRACT FOR REPORT.—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 has 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 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—HOUSING MATTERS

SEC. 301. INCREASE IN, AND ANNUAL INDEXING OF, MAXIMUM AMOUNT OF HOME LOAN GUARANTY FOR CONSTRUCTION AND PURCHASE OF HOMES.

(a) MAXIMUM LOAN GUARANTY BASED ON 100 PERCENT OF THE 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. 302. 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. 303. 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 COMMERCIALLY-LEASED SPACE.—Section 2052(c)(1) is amended by striking "services" and inserting "services, other commercial activities,".

TITLE IV—MEMORIAL AFFAIRS MATTERS

SEC. 401. ELIGIBILITY OF CERTAIN PERSONS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—(1) Chapter 24 is amended by adding at the end the following new section:

"§ 2412. Arlington National Cemetery: eligibility of certain persons for burial

"(a)(1) The remains of a member or former member of a reserve component of the Armed Forces who at the time of death was under 60 years of age and who, but for age, would have been eligible at the time of death for retired pay under chapter 1223 of title 10 may be buried in Arlington National Cemetery on the same basis as the remains of members of the Armed Forces entitled to retired pay under that chapter.

"(2) The remains of the dependents of a member whose remains are permitted under paragraph (1) to be buried in Arlington National Cemetery may be buried in that cemetery on the same basis as dependents of members of the Armed Forces entitled to retired pay under such chapter 1223.

"(b)(1) The remains of a member of a reserve component of the Armed Forces who dies in the line of duty while performing active duty for training or inactive duty training may be buried in Arlington National Cemetery on the same basis as the remains of a member of the Armed Forces who dies while on active duty.

"(2) The remains of the dependents of a member whose remains are permitted under paragraph (1) to be buried in Arlington National Cemetery may be buried in that cemetery on the same basis as dependents of members on active duty.".

(2) The table of sections at the beginning of chapter 24 is amended by adding at the end the following new item:

"2412. Arlington National Cemetery: eligibility of certain persons for burial.".

(b) EFFECTIVE DATE.—Section 2412 of title 38, United States Code, as added by subsection (a), shall apply with respect to interments occurring on or after the date of the enactment of this Act.

SEC. 402. 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 as a Prisoner of War/Missing in Action National Memorial.

(b) EFFECT OF DESIGNATION.—The 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.

TITLE V—MISCELLANEOUS MATTERS

SEC. 501. 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. 502. 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".

INTRODUCTION

The reported bill reflects the Committee's consideration of ten bills introduced during the 108th Congress: H.R. 843, H.R. 1716, H.R. 1735, H.R. 2163, H.R. 2206, H.R. 2612, H.R. 3659, H.R. 4065, H.R. 4172, and H.R. 4173.

On April 30, 2003, the Subcommittee on Benefits held a hearing on three bills, including H.R. 1716, the Veterans Earn and Learn Act, introduced on April 10, 2003, by Honorable Christopher H. Smith and Honorable Lane Evans, the Chairman and Ranking Member of the Committee, respectively, and Honorable Henry E. Brown, Jr., and Honorable Michael H. Michaud, the Chairman and Ranking Member of the Subcommittee on Benefits, respectively.

On June 11, 2003, the Subcommittee on Benefits held a hearing on eight bills, including H.R. 2163, introduced on May 20, 2003, by Honorable Jeb Bradley and Honorable Michael H. Michaud.

On April 29, 2004, the Subcommittee on Benefits held a hearing on ten bills, including H.R. 843, the Injured Veterans Benefits Eligibility Act of 2003, introduced on February 13, 2003, by Honorable Silvestre Reyes, Honorable Lane Evans, Honorable Corrine Brown, Honorable Bob Filner, and Honorable Neil Abercrombie; H.R. 1735, introduced on April 10, 2003, by Honorable Susan A. Davis; H.R. 2206, the Prisoner of War/Missing in Action National Memorial Act, introduced on May 22, 2003, by Honorable Ken Calvert, Honorable Jerry Lewis, Honorable Mary Bono, Honorable Darrell E. Issa, and Honorable Joe Baca; H.R. 2612, the Veterans Adapted Housing Expansion Act of 2003, introduced on June 26, 2003, by Honorable Michael H. Michaud and Honorable Lane Evans; H.R. 4065, the Veterans Housing Affordability Act of 2003, introduced on March 30, 2004, by Honorable Ginny Brown-Waite; H.R. 4172, introduced on April 20, 2004, by Honorable Lane Evans and Honor-

able Michael H. Michaud; H.R. 4173, introduced on April 20, 2004, by Honorable Michael H. Michaud, Honorable Henry E. Brown, Jr., Honorable Lane Evans, and Honorable Christopher H. Smith; and a draft bill to create an open period for active duty servicemembers who declined to participate in the Post-Vietnam Era Veterans' Educational Assistance Program to elect to participate in the program of basic educational assistance under the Montgomery GI Bill.

On May 13, 2004, the Subcommittee on Benefits met and unanimously ordered H.R. 1716, as amended, reported favorably to the full Committee by voice vote.

On May 19, 2004, the full Committee met and ordered H.R. 1716, as amended, reported favorably to the House by unanimous voice vote.

SUMMARY OF THE REPORTED BILL

H.R. 1716, as amended, would:

1. Make Congressional findings with respect to the purposes of on-job training and apprenticeship programs administered by the Department of Veterans Affairs (VA) including: helping employers hire and retain skilled workers; establishing a link between training afforded to servicemembers and civilian training available for purposes of occupational licensing and credentialing; and developing a more highly educated and productive workforce.
2. Modify VA on-job training and apprenticeship benefit entitlement rates under the Vietnam-era and survivors' and dependents' programs to be consistent with the entitlement rates for the Montgomery GI Bill-Active Duty and Selected Reserve programs and the Post-Vietnam Era Veterans' Educational Assistance Program. The modification would calculate benefits entitlement usage for all programs based on "dollars used" rather than "time spent" in training, to help the trainee conserve entitlement. This provision would take effect one year after date of enactment.
3. Establish an incentive payment for persons participating in VA educational assistance programs who complete competency-based apprenticeship training early by allowing them to receive a lump sum payment for the remaining benefit. This provision would apply to training beginning on or after date of enactment and ending before October 1, 2010.
4. Increase by 10 percent the percentage of the full-time VA monthly educational assistance allowance payable to individuals pursuing a full-time apprenticeship or on-job training program. For the first six months of training, the percentage of the monthly benefit would increase from 75 percent to 85 percent; for the second six months of training, from 55 percent to 65 percent; and for subsequent months from 35 percent to 45 percent. These percentage increases would apply to the Montgomery GI Bill Active Duty and Selected Reserve programs, the Post-Vietnam Era Veterans' Educational Assistance program, and the Survivors' and Dependents' Educational Assistance program. This provision would be in effect from October 1, 2005 through September 30, 2010.

5. Authorize VA to pay benefits for competency-based apprenticeships and require State approving agencies to take into consideration the recommendation of the Secretary of Labor regarding the approximate term and standards for registered apprenticeship programs. Competency-based apprenticeships are completed upon demonstration of mastery of job skills rather than a set time period.
6. Require the Secretary of Veterans Affairs to establish a 5-year pilot program that furnishes on-job training benefits under VA educational assistance programs to claims adjudicators training in its disability compensation, dependency and indemnity compensation, and pension programs.
7. Require coordination of information among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training or registered apprenticeships pursued by servicemembers while serving in the military and their receipt of appropriate credit for such training in civilian training programs.
8. Codify VA regulations establishing cancer of the bone, brain, colon, lung and ovary as diseases for which a presumption of service connection is made for a veteran exposed to ionizing radiation, and amend the definition of "radiation-risk activity" to include service in a capacity which, if performed as an employee of the Department of Energy, would qualify the individual for the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (42 U.S.C. § 7384 et. seq.).
9. Permit a radiation-exposed veteran who receives payment under the Radiation Exposure Compensation Act (RECA), administered by the Department of Justice, to be eligible for VA compensation for a disease presumed to be service connected. A survivor who receives a payment under RECA would be entitled to dependency and indemnity compensation (DIC). VA compensation and DIC would be offset by the amount received under RECA.
10. Exclude life insurance proceeds from consideration as income for death pension benefits, and make an award of death pension effective the first day of the month in which the death occurred if the claim is received within one year from the date of the veteran's death.
11. Extend eligibility for vocational rehabilitation benefits and specify that specially adapted automobile and adaptive equipment benefits may be provided to veterans who are injured in a VA hospital due to negligence, carelessness, or similar reasons, and to veterans who are injured because of VA-sponsored rehabilitation or training, and codify a court decision finding that such veterans are eligible for specially adapted housing grants.
12. Direct the Secretary of Veterans Affairs to contract for a report on placement, retention, and advancement of recently separated veterans in private sector employment for the purpose of determining ways to improve their employment opportunities.

13. Increase the maximum VA home loan guaranty to 25 percent of the Freddie Mac conforming loan amount for a single family residence and annually index the maximum amount of VA's home loan guaranty for construction or purchase of a home to that Freddie Mac limit. In 2004, the increase would raise from $240,000 to $333,700 the maximum amount for a home loan guaranteed by VA.
14. Extend eligibility for specially adapted housing grants to veterans with permanent and total service-connected disabilities due to the loss, or loss of use, of both arms at or above the elbow.
15. Specifically allow volunteers to provide services in connection with the construction, alteration or repair of multifamily transitional housing.
16. Make eligible for in-ground burial at Arlington National Cemetery a member or former member of a reserve component of the Armed Forces who at the time of death was under 60 years of age and who, but for age, would have been eligible for military retired pay under title 10, United States Code. This provision would also extend eligibility to the servicemember's dependents.
17. Make eligible for in-ground burial at Arlington National Cemetery a member of a reserve component of the Armed Forces who dies in the line of duty while on active duty for training or inactive duty training. This provision would also extend eligibility to the servicemember's dependents.
18. Designate a memorial currently under construction at the Riverside National Cemetery in Riverside, California, as a National Prisoner of War/Missing In Action Memorial.

BACKGROUND AND DISCUSSION

Earn and Learn.—Sections 101 through 107 of the bill would modernize the on-job training (OJT) and apprenticeship programs administered by VA to reflect contemporary American business and industry practices and promote veterans' employment opportunities. These sections of the bill apply to the following VA educational assistance programs: the All-Volunteer Force Educational Assistance Program (Montgomery GI Bill-Active Duty), chapter 30, title 38, United States Code; the Post-Vietnam Era Veterans Educational Assistance Program, chapter 32, title 38, United States Code; the Vietnam-Era Veterans Educational Assistance Program, chapter 34, title 38, United States Code; the Survivors' and Dependents' Educational Assistance Program, chapter 35, title 38, United States Code; and the Educational Assistance for Members of the Selected Reserve Program, (Montgomery GI Bill-Selected Reserve), chapter 1606, title 10, United States Code.

The goal of this chapter of the bill is to modify VA's on-job training and apprenticeship program to reflect today's workplace. The Committee has consulted extensively with representatives of organized labor, business, and industry to obtain suggestions for improving the design of these programs. The Committee has also consulted informally with VA and the Department of Labor (DOL), in addition to selected states, to learn of their experiences in admin-

istering these programs. Congress has not significantly modified the content of these programs since World War II.

VA's current OJT and apprenticeship programs pay veterans to learn as they earn an income. Rates for the various chapters differ somewhat, but in general, for the first six months veterans receive a monthly benefit of $675; for the second six months $496 monthly; and for the remainder of training $315 monthly. Congress furnishes a training allowance in these amounts to offset the difference between the training wage and the wage of the fully-trained employee. OJT can last for up to two years; apprenticeships often last as long as five years.

The Committee notes that traditional college education is a well-known part of VA's various educational assistance programs, including the current Montgomery GI Bill (MGIB). However, on-job training and apprenticeship opportunities under MGIB appear to be less recognized and greatly underused when compared to the traditional two or four year college education. For example, of 321,837 veterans using the MGIB (chapter 30) in fiscal year 2003, only 11,346 (3.53 percent) were participating in on-job training and apprenticeship programs.

Under Secretary for Benefits Daniel L. Cooper advised the Committee by letter on September 11, 2002, that the OJT-apprenticeship "low participation rate is not due to a low number of employers but a low veteran participation. The number of participating employers is constantly changing, but State approving agencies are currently reporting about 7,000 employers who offer one or more VA-approved OJT or apprenticeship programs. Only about 2,200, or not quite 32 percent, have at least one veteran in training and receiving VA education benefits for the training." The Committee finds this to be unacceptable and intends to emphasize placing veterans in these programs to the maximum extent practicable.

The Committee also notes that 7.2 percent of veterans who used the Vietnam-era GI Bill trained through apprenticeship or OJT. For World War II veterans, about 18 percent trained in this manner. The Committee believes that veterans who have served our country and who need apprenticeship or OJT to further their employment goals must be provided a better program. Former servicemembers bring resourcefulness and reliability to the workplace. The preponderance of witnesses testifying at the Benefits Subcommittee's April 30, 2003, hearing stated that former servicemembers are competitive business assets because of their character and commitment, as well as years of high quality training and practical work experience.

DOL reports that 858 occupations in America offer apprenticeships. Apprenticeship occupations can be categorized as follows: arts; business and administrative support; installation, maintenance and repair; production; science, drafting and computing; and service. Occupations range from boilermaker to bricklayer, carpenter to cook, electrician to emergency medical technician, and pipe fitter to police officer.

The Committee notes that economic development data from the states of Missouri and Pennsylvania demonstrate that these programs can be successful. Missouri's aggressive efforts to place veterans into OJT and apprenticeships with the state's employers provide about $38 million annually in VA education and training bene-

fits to those veterans. Pennsylvania is reporting similar success. The Governor of Pennsylvania sends each separating servicemember a letter to encourage use of VA education and training benefits.

About two-thirds of active duty servicemembers are married when they separate from the military. "Earning and learning" on the job through an OJT or apprenticeship program approved for veterans' training can be an excellent way for a servicemember to make the transition to civilian life. Because some military occupational skills are not readily transferable to the civilian economy, some veterans may have to train for a new occupation, or retrain to transfer their military skills to the civilian market. Veterans with military job skills that are transferable to civilian life gain by working and training on the job while meeting the necessary licensing and certification requirements. Employers gain because hiring veterans is a good business decision.

Findings.—Section 101 of the bill would make Congressional findings with respect to broad purposes for VA's OJT and apprenticeship programs in both the private and public sectors of our economy. These include: helping employers hire and retain skilled workers; establishing a link between the training afforded to servicemembers while serving in the Armed Forces and the training available in civilian settings for purposes of occupational licensing and credentialing; and developing a more highly educated and productive workforce.

Modification of benefit entitlement charges for certain on-job training programs.—Under current law, VA calculates the Montgomery GI Bill active duty and Selected Reserve programs entitlement usage based on monthly VA payment amounts rather than the amount of time spent in training. This "dollars used" versus "time spent" method helps the trainee conserve entitlement while participating in the OJT or apprenticeship program, leaving additional entitlement for other educational pursuits, such as earning an associate degree in a specialized technology or meeting initial and on-going licensing or credentialing requirements. Therefore, section 102 would make the computation of entitlement usage for the chapter 34 and 35 programs consistent with the "dollars used" method applicable to the newer programs.

Incentive payment for early completion of apprenticeship training.—Section 103 of the bill would establish an incentive payment for program participants who finish their apprenticeship training early. As an incentive for trainees to complete their apprenticeship or attain journeyworker status early, this provision would require VA to pay the trainee a lump sum payment for the months of VA entitlement remaining that would have been needed to complete the apprenticeship. This approach would remove the current disincentive to gain journeyworker status in competency-based apprenticeships as soon as the veteran has demonstrated the required competencies for that status. This provision would be applicable for months beginning on or after October 1, 2005 and ending before October 1, 2010. The Committee expects that the Secretary will monitor the effects of these payments on the apprenticeship programs and successful employment and make recommendations for continuation or modification of the program in future years.

Increase in benefit for individuals pursuing apprenticeship or on-job training.—Section 104 of the bill would increase the percentage of the monthly VA benefit for trainees participating in VA-approved OJT or apprenticeship programs. Specifically, it would increase by 10 percent the percentage of the full-time VA monthly educational assistance allowance payable to individuals pursuing full-time apprenticeship or on-job training programs. For the first six months of training, the percentage of the monthly benefit would increase from 75 percent to 85 percent; for the second six months of training, from 55 percent to 65 percent; and for subsequent months from 35 percent to 45 percent. This provision would be applicable for months beginning on or after October 1, 2005 and ending before October 1, 2010.

Authority for competency-based apprenticeship programs.—Section 105 of the bill would authorize the VA to pay benefits for competency-based apprenticeships. In today's workplace, apprenticeship programs are time-based or competency-based, or a combination of the two. In the case of a competency-based learning program, this provision requires VA to take into consideration the length of the program based on DOL standards. Apprenticeships offered in industries that elect not to register with the Secretary of Labor, and that are approved for veterans' training by a State approving agency, would continue to serve as legitimate training and learning opportunities for beneficiaries. This section would also furnish the Secretary of Veterans Affairs the authority to use up to $3 million to develop the computer systems and procedures needed to carry out provisions of the bill.

Pilot program to provide on-job benefits to train Department of Veterans Affairs' claims adjudicators.—Section 106 of the bill would require the Secretary of Veterans Affairs to establish a pilot program to furnish on-job training benefits to claims adjudicators training in its disability compensation, dependency and indemnity (DIC), and pension programs. The Committee notes that two of VA's four regional offices that adjudicate educational assistance claims already offer such training. The Committee further notes this pilot is unique because it would waive the current two-year maximum for on-job training. VA employees who adjudicate disability, DIC, and pension claims require three years to qualify as journeyworkers. The Committee believes this provision has the potential to increase VA's ability to recruit and retain former servicemembers in these important positions, especially given the number of employees forecasted to retire over the next three years. The Secretary would be required to submit reports concerning continuation and expansion of the pilot program.

Requirement for coordination of data among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training.—Section 107 of the bill would require certain coordination of information among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training and apprenticeship programs: first, at the time of a servicemember's separation from active duty, the Secretary of Defense would be required to furnish to the Secretary of Veterans Affairs information concerning each registered apprenticeship pursued by the servicemember during his or her active duty service; and second, it would require the Secretary

of Veterans Affairs, in coordination with the Secretary of Labor, to encourage and assist states and private organizations to grant credit to servicemembers for skills in any related apprenticeship the servicemember may pursue in civilian life.

The Committee notes that sections 101 through 107 affects many entities in the workforce development process, including veterans, disabled veterans, business, industry and organized labor. Accordingly, a number of groups have formally supported these provisions, including The American Legion, Paralyzed Veterans of America, The Associated Builders and Contractors, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, International Union of Bricklayers and Allied Craftworkers, Association of Small Business Development Centers, and the U.S. Chamber of Commerce.

Codification of administrative actions relating to presumptions of service connection for veterans exposed to ionizing radiation.—Section 201 of the bill would codify current VA regulations which added bone cancer, brain cancer, colon cancer, lung cancer, and ovarian cancer to the list of those diseases presumed to be service-connected for veterans exposed to ionizing radiation while in service. This section would also codify additional locations where radiation-risk activities occurred for purposes of determining which veterans qualify for presumption of service-connection of certain diseases related to radiation exposure.

VA amended its regulations for radiation-exposed veterans on March 26, 2002, in order to ensure that veterans seeking compensation for service-connected disabilities who may have been exposed to radiation during military service do not have a higher burden of proof than civilians exposed to ionizing radiation. Compensation is provided to civilians under the Radiation Exposure Compensation Act (Public Law 101–426) and the Energy Employees Occupational Illness Compensation Program Act of 2000 (Public Law 106–398).

Offset of veterans' disability compensation and dependency and indemnity compensation from awards under radiation exposure compensation program.—Section 202 of the bill would repeal a bar that prevents a veteran or survivor from applying for VA benefits if the individual had previously received compensation of $75,000 from the Department of Justice under the Radiation Exposure Compensation Act (RECA). Under current law, veterans who first applied for and received a RECA award are prohibited from receiving any VA benefits. However, veterans and survivors who applied for VA benefits first may then apply for the $75,000 RECA award, subject to offset by the Department of Justice of the amounts received from VA. The bill would allow individuals to receive any VA "atomic veterans" benefits for which they qualify; however, the amount received under RECA is subject to an offset. VA would withhold the benefits check each month until the amount of the RECA award has been offset.

Exclusion of life insurance proceeds from consideration as income for veterans' pension purposes.—Section 203 and section 204 of the bill would ease restrictions on eligibility for VA's death pension program for survivors. Section 203 would exclude life insurance

proceeds from consideration of income for death pension benefits. Eligibility for death pension is needs-based and largely determined on annual income and "net worth." Claimants who receive insurance proceeds and file a pension claim within 45 days of the veteran's death have insurance proceeds counted as part of their annual income, often reducing or precluding pension benefits during their first year of potential eligibility. However, for claimants who under current law receive lump sum insurance proceeds and wait until for more than 45 days after the veteran's death before filing a pension claim, the insurance proceeds are counted as "net worth" or resources rather than as income, and they receive more pension benefits during the first year after the veteran's death.

Effective date of pension.—Section 204 of the bill would repeal the 45-day rule for the effective date of death pension. Under current law, an award based on a death pension claim received more than 45 days after the veteran's death can be effective no earlier than the date of the claim. However, if VA receives an application for death pension within 45 days of the veteran's death, then the effective date of the death pension award is the first day of the month in which the death occurred. Other VA benefits, such as dependency and indemnity compensation, are made retroactive to the date of death if the survivor applies for benefits within one year of the veteran's death.

Certain service-connected disability benefits authorized for persons disabled by treatment or vocational rehabilitation provided by the Department of Veterans Affairs.—Section 205(a) of the bill would allow veterans who are injured or die as a result of negligent or careless VA medical treatment or who are injured or die because of VA-sponsored rehabilitation or training to qualify for vocational rehabilitation benefits. In addition, this section specifies that specially adapted automobiles and adaptive equipment may be provided to such veterans. Under current law, those veterans who are injured or die under the above conditions, their dependents, and their surviving spouses are eligible for compensation as if the injury or death was service-connected. However, they are not currently eligible for all of the benefits awarded to veterans with service-connected disabilities. *See Mintz* v. *Brown*, 6 Vet. App. 277 (1994).

Under the court's decision in *Kilpatrick* v. *Principi*, 327 F.3d 1375, (Fed. Cir. 2003), veterans who qualify for benefits under section 1151 of title 38, United States Code, may also be eligible to receive a grant for specially adapted housing under chapter 21 of title 38, United States Code. This section would codify the court's decision in *Kilpatrick*. The Committee notes that in order to qualify for specially adapted housing or automobile grants under this provision, the disability which is the basis for the grant must be one which is attributable to the section 1151 claim.

Section 205(b) of the bill would amend subsection (b) of section 1151 of title 38, United States Code, to provide that where a judgment, settlement or compromise of a claim is offset against benefits provided by the Secretary, such offset would be applied only to the comparable benefit. For example, if a judgment specifically provided $100,000 for specially adapted housing, the veteran would not be eligible for a specially adapted housing grant from VA, since

the VA grant (currently $50,000) would be offset against the $100,000 judgment. Compensation benefits under section 1151 of title 38, United States Code, would be offset against any amounts awarded for loss of earnings, pain and suffering or (with respect to a dependent's portion of an award under section 1151), for loss of consortium or society. Dependency and indemnity benefits under chapter 13 of title 38, United States Code, would be offset against any amounts awarded for wrongful death. The Committee intends that this section should be applied in a manner which prevents duplicate payments under section 1151 and any award pursuant to a judgment, settlement or compromise of a claim, but would not reduce the amount of such award if no duplication of benefits would result.

Report on employment placement, retention, and advancement of recently separated servicemembers.—Section 206 of the bill would direct the Secretary of Veterans Affairs to contract for a report on employment placement, retention, and advancement of recently separated veterans. Since 1990, approximately four million servicemembers have transitioned from the Armed Forces to the civilian sector. A comprehensive study and report on these individuals would provide a valuable tool in determining the private sector's perceptions of servicemembers as a workforce asset and the effectiveness of transition assistance services and job training programs. It would also make recommendations for developing a veterans' employment networking system.

Increase in, and annual indexing of, maximum amount of home loan guaranty for construction and purchase of homes.—Section 301 of the bill would index the maximum VA loan amount to 25 percent of the Freddie Mac conforming loan limitation for a single family residence. A loan that meets the conforming loan limit is one that is not greater than the limit established each October by the Federal Housing Finance Board and meets generally accepted standards for quality, type and class. The maximum guaranty would be $83,425 for a maximum home loan of $333,700 regardless of the size of the unit, and would continue to be adjusted annually.

Under current law, VA guarantees a maximum of $60,000 in the event of a default under a VA-guaranteed loan of $240,000, regardless of the size of the unit. The amount is not indexed, however, requiring Congressional action to increase the amount of the guaranty.

Home prices continue to escalate in many parts of the country, far beyond the $240,000 home loan amount under a VA-guaranteed loan today. For example, the April 29, 2004, testimony of the National Association of Realtors notes that in 2003, the median home price across the state of California was $305,000 (with much higher costs in specific cities); $350,000 for the New York/New Jersey/Connecticut areas; and $407,000 in Boston. The current limitation of $240,000 leaves many veterans unserved.

Authority to provide specially adapted housing to certain disabled veterans.—Section 302 of the bill would extend eligibility for specially adapted housing grants to veterans with permanent and total service-connected disabilities due to the loss, or loss of use, of both arms at or above the elbow. Under current law, veterans who have lost (or lost the use of) their lower extremities, or lost their sight

plus loss (or loss of use of) one extremity, or lost (or lost the use of) one lower and one upper extremity qualify for a one-time grant to adapt their homes to accommodate their disability. Veterans who have lost the use of their hands or are blind receive a smaller grant. The current grant amount is $50,000 for the most severely disabled veterans and $10,000 for less severely disabled veterans. This provision would provide the larger benefit to veterans who have lost (or lost the use of) both arms at the elbow joints or higher. Section 302 of the bill would also reorganize section 2101 of title 38, United States Code, for clarity. No substantive change is intended by this reorganization.

Transitional Housing Amendments.—Section 303 of the bill would provide that a multifamily transitional housing project that is funded by a VA loan guaranty for such housing may accept uncompensated voluntary services performed by a public or non-profit private entity in connection with the construction, alteration, or repair of such projects. Currently, VA has no specific authority to accept voluntary services. This section would also authorize space for commercial activities other than neighborhood retail services and job training programs in a transitional housing project. VA authority currently is limited to retail services. The additional authority is intended to permit other types of businesses which can employ veterans to be located at the transitional housing location.

Eligibility of certain persons for burial in Arlington National Cemetery.—Section 401 of the bill would eliminate the requirement that retired reservists be in receipt of their retirement pay under title 10, United States Code, to be eligible for in-ground burial at Arlington National Cemetery. Retired reservists must be 60 years old in order to receive retirement pay. Retirees of the reserve service who are not yet 60 years old are often referred to as being in the "grey zone." The bill would also make eligible for in-ground burial members of reserve components who die in the line of duty during active duty for training or inactive duty training. Similar legislation (H.R. 3423) passed the House on December 20, 2001 (*See* H. Rept. 107–346).

Burial space is limited at Arlington and the Committee appreciates the Army's interest in maintaining its strict eligibility rules. However, reservists play an essential role in the total force concept of today's military. As reservists' service in the war in Afghanistan and the war in Iraq demonstrate, the reserve components are responsible for providing many critical skills and mission capabilities. The Committee believes it is inequitable that a reservist who serves our Nation for a minimum of 20 years should be ineligible for in-ground burial at Arlington because he or she had the misfortune to die prior to attaining age 60. Similarly, the Committee sees no reason why a reservist should be disqualified for burial at Arlington because that individual was in training status when he or she died in the line of duty. In today's military, there is often no practical difference between active duty and training status, and members of the reserve components make a direct contribution to the defense of the Nation when technically in "training" status.

Designation of Prisoner of War/Missing in Action National Memorial, Riverside National Cemetery, Riverside, California.—Section 402 of the bill would designate a Prisoner of War/Missing

in Action Memorial at the Riverside National Cemetery in Riverside, California as a National Memorial. The memorial is the first phase of a larger master plan approved by the Riverside National Cemetery Monuments and Memorial Commission, a private entity, in conjunction with the VA's National Cemetery Administration. The memorial is not being constructed on land that could otherwise be used for burials, and no federal funds are being used to construct or maintain it. This provision would permit but not require federal funds to be used at the discretion of the Secretary for maintenance of the memorial, should other funding sources prove to be inadequate.

SECTION-BY-SECTION ANALYSIS

Section 1 would provide that this Act may be cited as the "Veterans Earn and Learn Act of 2004."

Section 2 states that except as otherwise expressly provided, all references are to title 38, United States Code.

Section 101 would make the following Congressional findings with respect to the on-job training and apprenticeship programs administered by VA: (1) educational assistance programs for veterans for apprenticeship and on-job training of the Department of Veterans Affairs assist employers to hire and retain skilled workers; (2) these programs establish a link between training afforded to servicemembers while serving in the Armed Forces and training available in civilian settings for purposes of occupational licensing and credentialing; and (3) these programs develop a more highly educated and productive work force.

Section 102(a) would add a new subsection (e)(1) to current section 3687 of title 38, United States Code, "Apprenticeship or other on-job training." This section would require that for each month an individual pursues an educational assistance program under chapters 34 or 35 of title 38, United States Code, and is paid a training assistance allowance, the entitlement of the individual be charged at a percentage rate that is equal to the ratio of such training assistance allowance for the period of months involved applicable to the monthly educational assistance allowance payable to the individual for such months. Further, this section would require that for any month in which an individual fails to complete 120 hours of training, the educational assistance entitlement otherwise chargeable to chapter 34 and chapter 35 of title 38, United States Code, be reduced in the same proportion as the monthly training assistance allowance payable is reduced under subsection (b)(3) of section 3687, title 38, United States Code.

Section 102(b) would make the changes to section 3687 effective for months beginning on or after one year from date of enactment.

Section 103 would authorize a new incentive payment for early completion of apprenticeship training.

Section 103(a)(1) would add a new paragraph (4)(A) to section 3032(c) of title 38, United States Code, to require that in the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under chapter 30 of title 38, United States Code, for that program is exhausted, the Secretary shall pay to the

individual a lump-sum amount equal to the difference between (1) the total amount of educational assistance allowances that could have been paid to the individual for the successful completion of that program, and (2) the amount of educational assistance allowance paid to the individual for the program. Section 103(a)(1) would also add a new paragraph (4)(B) which would require that a lump sum payment paid to an individual under chapter 30 (and chapter 34, if applicable) shall be charged at the applicable rate under paragraph (3).

Section 103(b) would add a new subsection (c)(1) to section 3233 of title 38, United States Code, to make the same changes to the Post-Vietnam Era Veterans' Educational Assistance Program as section 103(a) makes to the chapter 30 program.

Section 103(c) would amend section 3687 of title 38, United States Code, as amended by section 102, by adding a new subsection (f)(1). This subsection would make the same changes to the Veterans' Educational Assistance and Survivors and Dependents' Educational Assistance program as section 103(a) and (b) would make to the chapter 30 and 32 programs, respectively.

Section 103(d)(1) would add a new paragraph (4)(A) to section 16131(d) of title 10, United States Code. This section would make the same changes to the Montgomery GI Bill Selected Reserve program as sections 103(a), (b), and (c) make to the chapter 30, 32, and 35 programs, respectively.

Section 103(e) would provide that the amendments made by this section shall apply to programs of training beginning on or after the date of the enactment of this Act and ending before October 1, 2010.

Section 104(a) would amend section 3032(c)(1) of title 38, United States Code, to increase the percentage amount of the monthly educational assistance allowance payable for apprenticeship or other on-job training under the Montgomery GI Bill-Active Duty (1) for the first six months, from 75 percent to 85 percent; (2) for the second six months, from 55 percent to 65 percent; and (3) for the third six months, from 35 percent to 45 percent of the institutional rate for full-time students.

Section 104(b) would make the same percentage changes to section 3233(a) of title 38, United States Code, with respect to the Post-Vietnam Era Veterans Educational Assistance Program, as would be made under section 104(a).

Section 104(c) would amend section 3687(b)(2) of title 38, United States Code which applies to apprenticeship or other on-job training by increasing the educational assistance allowance for the first six months of training from $574 to $650; for the second six months of training from $429 to $507; and for the third six months of training from $285 to $366.

Section 104(d) would make the same percentage changes to subsection (d)(1) of section 16131 of title 10, United States Code, with respect to the Selected Reserve Montgomery GI Bill, as would be made under sections 104(a) and (b).

Section 104(e) would provide that section 104 takes effect with respect to months beginning on or after October 1, 2005, and before October 1, 2010.

Section 105 would provide a new authority for competency-based apprenticeship programs.

Section 105(a) would create new paragraphs (2), (3)(A), (3)(B), and (4) in section 3672(c) of title 38, United States Code, to allow an apprenticeship to be determined upon a specific period of time ('time-based program'), or based upon the demonstration of successful mastery of skills ('competency-based program'), or a combination of the two. This subsection would direct the State approving agencies to consider the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor. This subsection would direct the sponsor of a competency-based apprenticeship program to provide notice to the State approving agency involved of any standards and the proposed approximate period of training time under the program. This subsection would further require the Secretary of Labor to notify VA upon the successful completion of a program of apprenticeship by a veteran, eligible veteran, or eligible person, as the case may be.

Section 105(b) would amend section 3672(d)(1) of title 38, United States Code, by adding at the end a requirement that the Secretary of Labor provide assistance and services to VA and the State approving agencies to increase the use of apprenticeships.

Section 105(c) would amend section 3677 of title 38, United States Code, by adding at the end a new section (d)(1) requiring that the sponsor of any program of training on the job notify VA upon the successful completion of a program by a veteran, eligible veteran, or eligible person, as the case may be. It would also add a new subsection (d)(2) stating the term 'training on the job' includes training commonly referred to as 'on-job learning'.

Section 105(d) would provide funding for fiscal year 2005 from the readjustment benefits appropriations account not to exceed $3,000,000 to modify computer systems and to develop procedures required to carry out the amendments made by subsection 105(a) and sections 102, 103, and 104.

Section 106 would further amend section 3677 of title 38, United States Code, by adding subsection (c) to direct the Secretary of Veterans Affairs to conduct a pilot program to train on the job, in a three-year program, employees of VA to become qualified adjudicators of claims for compensation, dependency and indemnity compensation, and pension. Trainees would receive educational assistance allowance under chapters 30, 31, 32, 34, and 35 of title 38, United States Code, respectively, while training. Not later than three years after implementation of the pilot, the Secretary would be required to submit a report to Congress which would include an assessment of the program's usefulness in recruiting and retaining personnel of VA as well as an assessment of the value of the program. Not later than 18 months after the initial report, the Secretary would be required to submit a final report to Congress which would include recommendations of the Secretary with respect to continuation of the pilot project and with respect to expansion of the program. The pilot project would terminate five years after implementation of the program.

Section 107 would amend section 3694 of title 38, United States Code, by adding subsection (b) to require coordination of informa-

tion among the Departments of Veterans Affairs, Defense and Labor with respect to on-job training. At the time of a servicemember's discharge, the Secretary of Defense would be required to furnish VA with information concerning each registered apprenticeship pursued by the servicemember during active duty. The Secretary of Veterans Affairs, in conjunction with the Secretary of Labor, would be required to encourage and assist States and private organizations to give credit to a servicemember for the registered apprenticeship program pursued while on active duty, in the same manner as any related apprenticeship program the servicemember may pursue as a civilian.

Section 201(a) would amend subsection (c)(2) of section 1112 of title 38, United States Code, which authorizes VA to presume certain diseases are service-connected for radiation-exposed veterans by adding the following new subparagraphs: (Q) Cancer of the bone; (R) Cancer of the brain; (S) Cancer of the colon; (T) Cancer of the lung; and (U) Cancer of the ovary.

Section 201(b) would amend subsection (c)(3)(B) of section 1112 of title 38, United States Code, by adding "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. 73841(14)." This service would qualify as a radiation risk activity for purposes of veterans' benefits.

Section 202(a) would amend subsection (c) of section 1112, title 38, United States Code, and provide that 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 compensation to which that veteran is entitled, but there shall be deducted from payment of such compensation the amount of the payment under that Act.

Section 202(b) would amend section 1310 of title 38, United States Code, to provide that 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.

Section 202(c) would provide that the new provisions in section 1112(c) and section 1310 of title 38, United States Code, shall take effect with respect to compensation payments and dependency and indemnity compensation payments for months beginning after March 26, 2002.

Section 203 would amend section 1503(a) of title 38, United States Code, by excluding lump-sum proceeds of any life insurance policy on a veteran, for purposes of determining the income of a person otherwise eligible for pension for surviving spouses and children (death pension) under subchapter III of chapter 15.

Section 204 would amend section 5110(d)(1) of title 38, United States Code, and provide that the effective date of an award of death compensation, dependency and indemnity compensation, or

death pension for which an application is received within one year from the date of death shall be the first day of the month in which the death occurred. This section would also repeal subparagraph (2) of section 5110(d) which requires that an application for death pension be received within 45 days of death in order to be retroactive to the month of the veteran's death.

Section 205(a) would amend section 1151 of title 38, United States Code, by adding a new subsection (c) to provide that a qualifying additional disability under section 1151 shall be treated in the same manner as if it were a service-connected disability for purposes of provisions under chapter 21 of title 38, United States Code, relating to specially adapted housing; chapter 31 of title 38, United States Code, relating to vocational rehabilitation; and chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment.

Section 205(b) would provide that new subsection (c) shall apply with respect to eligibility for benefits and services provided by the Secretary of Veterans Affairs on or after date of enactment of this Act.

Section 205(c) would amend subsection (b) of section 1151, title 38, United States Code, by adding a new subparagraph (2) providing that in the event that monies received by reason of a judgment, settlement, or compromise of a claim covered by paragraph (b)(1) are specifically designated for a benefit other than compensation for loss of earning capacity or for pain and suffering, such amount shall be offset under paragraph (1) only against the comparable benefit provided under this title (if any). Any amounts attributable to pain and suffering, loss of earnings capacity, or loss of consortium or society, shall be offset against benefits otherwise payable under this chapter and any amounts attributable to wrongful death shall be offset against benefits otherwise payable to survivors of the veteran under chapter 13 of this title.

Section 205(d) would provide that the amendment made by section 205(c) shall apply with respect to any judgment, settlement, or compromise covered by section 1151(b) of title 38, United States Code, that becomes final on or after the date of enactment of this Act.

Section 206(a) would require the Secretary of Veterans Affairs to 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.

Section 206(b)(1) would require that the content of the report consist of an analysis of employment-related data that has been collected with respect to recently separated servicemembers.

Section 206(b)(2) would require that the qualified entity: (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; (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.

Section 206(c) would require that in conducting the study, 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.

Section 206(d)(1) would require that the contract contain such terms and conditions as the Secretary may require, and contain a requirement 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.

Section 206(d)(2) would require that the report required by the contract 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.

Section 206(e) would provide that payment by the Secretary for the contract entered into under subsection (a) shall be made from the Department of Veterans Affairs appropriations account from which payments for readjustment benefits are made and may not exceed $490,000.

Section 206(f)(1) would define the term 'qualified entity' as 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.

Section 206(f)(2) would define the term 'employment history' with respect to a recently separated servicemember as training, placement, retention, and advancement in employment of that servicemember.

Section 206(f)(3) would define the term 'recently separated servicemember' as 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.

Section 301(a) would amend section 3703(a)(1) of title 38, United States Code, by striking the current maximum home loan guaranty amount of $60,000 and replacing it with a reference to an amount determined annually by the Federal Home Loan Mortgage Corporation (Freddie Mac).

Section 301(b) would further amend section 3703(a)(1) by defining the term 'maximum guaranty amount' as 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.

Section 302 would amend the text of section 2101, title 38, United States Code, to include the loss, or loss of use, of both upper arms at or above the elbow as a condition that would qualify a veteran for the specially adapted housing grant authorized by this section. This section would also reorganize section 2101 of title 38, United States Code, for clarity.

Section 303(a) would add a new section 2051(h) to title 38, United States Code, to specifically authorize the use of veteran volunteers in connection with the construction, alteration, and repair of multifamily transitional housing.

Section 303(b) would amend section 2052(c)(1) of title 38, United States Code, to authorize space for other commercial activities in a transitional housing project, in addition to neighborhood retail services and job training programs.

Section 401(a) would amend chapter 24 of title 38, United States Code, by adding a new section. New section 2412 of title 38, United States Code, would make eligible for in-ground burial at Arlington the remains of a member or former member of a reserve component of the Armed Forces who was under 60 years of age and who, but for age, would have been eligible at the time of death for retirement pay under chapter 1223 of title 10, United States Code, on the same basis as the remains of members of the Armed Forces entitled to retired pay under that chapter. It would also provide eligibility for the member's dependents. This section would also make eligible for in-ground burial at Arlington the remains of a member of a reserve component of the Armed Forces who dies in the line of duty while on active duty for training or inactive duty training on the same basis as the remains of a member of the Armed Forces who dies while on active duty. It would also provide eligibility for the member's dependents.

Section 401(b) would make the effective date of this provision applicable with respect to interments occurring on or after the date of enactment of this Act.

Section 402(a) would designate 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, as a Prisoner of War/Missing in Action National Memorial.

Section 402(b) would provide that the 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 con-

strued to require Federal funds to be expended for any purpose related to the national memorial.

LETTERS REGARDING JURISDICTION OF THE COMMITTEE ON ARMED SERVICES

June 21, 2004

Honorable Christopher Smith
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Committee on Armed Services in matters being considered in H.R. 1716, a bill to amend title 38, United States Code, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes.

Our Committee recognizes the importance of H.R. 1716 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over a number of provisions of the bill, I do not intend to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Committee on Armed Services.

Additionally, the Committee on Armed Services asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference. The Committee also asks that this letter and the Committee on Veterans' Affairs response be included in the report of this bill.

With best wishes.

Sincerely,

DUNCAN HUNTER
Chairman

June 25, 2004

Honorable Duncan Hunter
Chairman, Committee on Armed Services,
House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: Thank you for your letter of June 21, 2004, regarding the jurisdictional interest of the Committee on Armed Services in the bill H.R. 1716, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes. This bill was referred primarily to the Committee on Veterans' Affairs and additionally to the Committee on Armed Services.

Your willingness to forego a sequential referral to expedite House consideration of H.R. 1716 is most appreciated. I recognize that the Committee on Armed Services has a valid claim to jurisdiction over certain provisions of the bill, and this decision to forego sequential referral is not construed by the Committee on Veterans' Affairs as affecting the jurisdiction of the Committee on Armed Services over the bill or as a precedent for other bills. In addition, if a conference on H.R. 1716 should become necessary, I will support any request

by you for the Committee on Armed Services to be represented on the conference. Finally, I will include your letter and this reply in the report of H.R. 1716.

Thank you for your cooperation on this matter of interest to both of our committees, and I look forward to working with you again on other matters.

Sincerely,

CHRISTOPHER H. SMITH
Chairman

PERFORMANCE GOALS AND OBJECTIVES

The reported bill would authorize veterans' benefits enhancements and program improvements under the laws administered by the Department of Veterans Affairs, as well as change burial eligibility for Arlington National Cemetery. Performance goals and objectives are established in VA's annual performance plans and are subject to the Committee's regular oversight. In addition, the Committee conducts regular oversight of Arlington National Cemetery.

STATEMENTS OF THE VIEWS OF THE ADMINISTRATION

Statement of Honorable Leo S. Mackay, Jr., Ph.D., Deputy Secretary of Veterans Affairs, Before the House Committee on Veterans' Affairs, Subcommittee on Benefits

April 30, 2003

Mr. Chairman and Members of the Subcommittee, thank you for providing me the opportunity to testify before you this morning on three measures affecting Department of Veterans Affairs education and vocational rehabilitation programs and small-business opportunities for veterans. The three bills on today's hearing agenda include: H.R. 1460, the "Veterans Entrepreneurship Act of 2003"; H.R. 1716, the "Veterans Earn and Learn Act"; and H.R. 1712, the "Veterans Federal Procurement Opportunity Act of 2003."

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H.R. 1716—"Veterans Earn and Learn Act"

Mr. Chairman, H.R. 1716 would amend title 38, United States Code, to improve VA educational assistance programs for apprenticeship and other on-job training.

Section 2 of the bill would modify the computation of on-job training and apprenticeship benefit entitlements under chapters 34 and 35 of title 38, United States Code, to be the same as the entitlement charged under chapters 30 and 32, of that title, as well as under the chapter 1606, title 10 U.S.C. program. This would provide needed uniformity in calculating use of entitlement for such training regardless of the benefit chapter under which a student is eligible, resulting in greater equity for veterans.

Section 3 of the bill would establish an incentive payment for program participants who finish their apprenticeship training early by requiring VA to pay the trainee a lump-sum payment for the months of VA entitlement remaining that would have ordinarily been needed to complete the apprenticeship.

Section 4 of the bill would increase the monthly VA benefit for trainees who simultaneously pursue apprenticeships or on-job training and related classroom instruction (whether or not the trainee was pursuing the academic instruction as a requirement of the apprenticeship or voluntarily under the trainee's own initiative). Currently, education benefits for apprenticeship and on-the-job training start at 75 percent of the benefit rate payable for full-time institutional training and these job training benefits decrease in stages as the individual progresses through the training program. This section would pay the full-time institutional rate for periods when the individual is in required classroom courses while also in the job training program. It will also allow individuals who voluntarily enroll in related courses to receive an increase based on the combined training, but not to exceed the full-time institutional rate.

Section 5 of the bill would codify VA's authority to pay benefits for competency-based apprenticeships. It would require VA to take into consideration the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor. Apprenticeships offered in industries that choose not to register with the Secretary of Labor, and that are approved for veterans' training by a state approving agency, would continue to be available. It would also authorize VA to use up to $3 million to develop the computer systems and procedures needed to carry out the above provisions of the bill. Current law permits approval of only time-based, fixed length apprenticeships. The 1990's saw a steady move away from time-based apprenticeships toward competency-based apprenticeships. This change would bring approval of apprenticeships into the 21st century.

Section 6 of the bill would require VA to establish a pilot program to furnish on-the-job benefits to claims adjudicators training in its disability compensation, dependency and indemnity (DIC), and pension programs. The pilot program would permit on-the-job training programs of up to 3 years to be approved for claims adjudicators who handle VA's Compensation and Pension programs. VA supports this program for claims adjudicators. Based on our past experience, the duration of this type of training would be approximately two years.

Section 7 of the bill would require coordination of information among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training. The Secretary of Defense would be required to furnish to the Secretary of Veterans Affairs information concerning each registered apprenticeship pursued by the servicemember during his or her active duty service. It would also require the Secretary of Veterans Affairs, in conjunction with the Secretary of Labor, to encourage and assist states and private organizations to accord credit to servicemembers for skills in any related apprenticeship the servicemember may pursue in civilian life. We believe such level of coordination would be beneficial so that veterans can receive full credit for their military training and not have to unnecessarily repeat training they received while on active duty.

We estimate the cost associated with enactment of H.R. 1716 to be $47.7 million for fiscal year 2004 and $548.4 million over ten years. Unless an offset is found, VA cannot support this legislation.

Statement of Frederico Juarbe, Jr., Assistant Secretary for Veterans' Employment and Training, Submitted for the Record to the Subcommittee on Benefits, House Committee on Veterans' Affairs

April 30, 2003

Mr. Chairman and members of the committee, thank you for the opportunity to provide comments on the "Veterans Earn and Learn Act." This initiative offers updates to the G.I. Bill that would ensure that on-the-job training and apprenticeship programs are in step with the requirements of the 21st Century Workforce. It would also ensure that these programs better support the needs of military veterans of the All Volunteer Force as they enter civilian employment.

This law could help the Department of Labor better achieve its mission in a number of ways:

1. It makes on-the-job training and apprenticeship programs that reflect today's workplace more accessible to today's veteran population by standardizing the way VA pays these benefits.
2. It encourages a higher rate of veteran participation in on-the-job training and apprenticeships. Because of the family commitments of today's veterans, they must earn while they learn in their transition to civilian life.
3. It authorizes competency-based criteria for attainment of journeyman status in place of exclusively time-based apprenticeships. This is more in tune with the credentialing models of today.
4. It helps employers hire and retain skilled workers by bridging military and civilian skill-sets for the purposes of licensing and certification.
5. It will require collaboration and coordination between the Departments of Defense, Veterans' Affairs and Labor to ensure military-acquired competencies are recognized in civilian workplaces.

The Department supports the goals of this bill, in keeping with its efforts to meet the demands of the 21st Century Workforce. The cost for this program, however, is not included in the President's budget and offsets would have to be found.

In conclusion, I want to thank you and the Committee for the opportunity to provide our input on this important piece of legislation.

Statement of Robert J. Epley, Associate Deputy Under Secretary for Policy and Program Management, Veterans Benefits Administration, Department of Veterans Affairs, Before the, House Committee on Veterans' Affairs, Subcommittee on Benefits

June 11, 2003

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify on several legislative items of interest to veterans. Accompanying me today is John H. Thompson, Deputy General Counsel.

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H.R. 2163

Section 1 of H.R. 2163 would amend section 1503(a) of title 38, United States Code, to add lump-sum proceeds of life insurance policies on a veteran to the list of payments that do not count as income for purposes of determining eligibility for death pension benefits administered by VA under chapter 15 of title 38, United States Code. Section 2 of this bill would amend section 5110(d) of title 38, United States Code, to make an award of death pension effective the first day of the month in which the death occurred if the claim is received within one year from the date of death. These provisions were proposed by VA in draft legislation submitted to Congress on April 25, 2003.

Under 38 U.S.C. § 5110(a), an award based on a death pension claim received more than 45 days after the veteran's death can be effective no earlier than the date of the claim. Pursuant to current 38 U.S.C. § 5110(d)(2), however, if VA receives an application for death pension within 45 days of the veteran's death, then the effective date of a death pension award is the first day of the month in which the death occurred. Section 5110(d)(2)'s original one-year period was reduced to the current 45 days by the Deficit Reduction Act of 1984, Pub. L. No. 98–369, 98 Stat. 494, 854–901, as a cost-saving measure. Unfortunately, the "45-day rule" created a situation that has led to unfair and unequal treatment of applicants for VA death pension.

The practical effect of the "45-day rule" in many cases has been to exclude lump-sum life insurance proceeds received within 45 days of the veteran's death from countable income for pension claimants who file their claims more than 45 days after the date of the veteran's death. In contrast, claimants who both receive insurance proceeds and file pension claims within 45 days of the veteran's death have insurance proceeds counted as annual income, often reducing or precluding pension benefits during their first year of potential eligibility. In other words, claimants who receive insurance proceeds within 45 days of death, but who wait 45 days or longer to file pension claims, can receive pension effective from the date of claim without regard to recently-received insurance proceeds. In essence, claimants receiving lump-sum insurance proceeds under the current law are encouraged to forego entitlement from the date of death in exchange for the exclusion of the insurance payment in determining countable income for the following 12 months.

While many veterans' advocates are aware of this situation and advise claimants who receive life insurance proceeds within 45 days of death to postpone filing their claims, the current law unfairly penalizes claimants who are not well versed in such technical details. Fairness dictates that VA rules and procedures be straightforward, particularly for claimants who are coping with the loss of loved ones. Consequently, we believe the "45-day rule" should be eliminated in favor of a rule making death pension benefits effective from the first day of the month of the veteran's death if the claim is received within one year of that date.

We also believe that this change must go hand in hand with an amendment excluding lump-sum life insurance proceeds from the computation of income for death pension purposes. Lump-sum life insurance proceeds of genuine consequence are more appropriately addressed in terms of net worth, as provided in 38 U.S.C. § 1543, than in terms of income. Pursuant to section 1543, a claimant is ineligible to receive death pension benefits if his or her net worth is such that it is reasonable that some portion of it should be consumed for his or her maintenance. In our view, a surviving spouse whose income, excluding lump-sum life insurance proceeds, and net worth do not constitute a bar to pension deserves help from VA.

We believe these proposed amendments are necessary and appropriate to eliminate unequal treatment of death pension applicants and to uphold one of the fundamental principles of the pension program, which is to ensure that those with the greatest need receive the greatest benefit.

We estimate that the net effect of enactment of both sections of this draft bill would cost $649,000 for FY 2004 and $12.8 million for the ten-year period FY 2004 through FY 2013.

Statement of Robert J. Epley Associate Deputy Under Secretary for Policy and Program Management Veterans Benefits Administration Department of Veterans Affairs

April 29, 2004

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to testify today and present the views of the Department of Veterans Affairs on several bills of great interest to our Nation's veterans.

H.R. 843

H.R. 843, the "Injured Veterans Benefits Eligibility Act of 2003," would amend 38 U.S.C. § 1151 to provide that a qualifying additional disability or qualifying death shall be considered a service-connected disability or death for purposes of all laws administered by VA. If enacted, the bill would create eligibility for each of VA's many service-connected benefit programs for veterans with non-service-connected injuries incurred as a result of VA training, hospitalization, or medical treatment. Thus, under the bill, section 1151 beneficiaries would attain the same benefit status as veterans who were disabled or died in line of duty during their military service.

The current law places veterans who suffer injuries caused by VA in the same position, for the purposes of monthly disability compensation, dependency and indemnity compensation, and certain other benefits (for example, Specially Adapted Housing) only, as they would be in if the disability or death actually resulted from their military service. At the same time, however, the Federal Tort Claims Act provides these injured veterans a tort remedy against the government for injuries incurred as a result of the negligence of a federal employee. Under the Act, a claimant who establishes negligence by the government is entitled to receive damages as authorized by the law of the State in which the tort occurred, except for punitive damages or interest prior to judgment. Current law provides that no benefits shall be paid under section 1151 to any individual who receives a tort judgment against the government or who settles a tort claim against the government until the aggregate amount of the compensation that would be paid under section 1151 equals the total amount of the tort award.

H.R. 843 would create eligibility for section 1151 beneficiaries under various title 38 benefit programs, including hospital, nursing home, and outpatient care; service-disabled veterans' insurance; burial benefits for death from service-connected disability; survivors' and dependents' educational assistance; and automobiles and adaptive equipment. Each of these benefits might correspond to an element of the damages constituting a tort award against the government under the Federal Tort Claims Act. Therefore, the bill might create an anomalous dual remedy for veterans with non-service-connected disabilities that is more advantageous than the remedy provided for veterans injured during their military service. For example, compensatory tort damages awarded to a veteran in a judgment against the government might include the value of a specially adapted automobile. Under the bill, that veteran could simply wait until he has satisfied the tort offset provisions to file an initial claim for VA automobile benefits under chapter 39 of title 38, United States Code. The veteran would receive government assistance in the purchase of an automobile twice, initially through the tort award and later under VA's program. Meanwhile, a veteran with similar injuries incurred in service would be entitled only to the benefits provided under VA's program.

VA estimates that enactment of H.R. 843 would result in benefit costs of approximately $755 thousand for Fiscal Year 2005 and $3.9 million over ten years. We cannot, however, estimate the costs of hospital, nursing home, outpatient and domiciliary care that would result from enactment of H.R. 843. The universe of potential beneficiaries under the bill would not be large because only 2,491 persons are currently receiving compensation or dependency and indemnity compensation under section 1151. Nevertheless, given the panoply of damages available to claimants under the Federal Tort Claims Act, we do not believe it is necessary to provide section 1151 beneficiaries with additional benefits equal to or in excess of those designed to fulfill in some measure the high obligation the government owes to those who were disabled or died as a result of their service to our Nation.

Therefore, we do not support enactment of H.R. 843.

* * * * * * *

MAXIMUM HOME LOAN GUARANTY

Mr. Chairman, you requested our views on two bills, H.R. 1735 and H.R. 4065, which would increase the maximum VA housing loan guaranty.

The first bill, H.R. 1735, would increase the maximum guaranty from $60,000 to $81,000. The other bill, H.R. 4065, would index the maximum guaranty to 22.5 percent of the Federal Home Loan Mortgage Corporation (also known as "Freddie Mac") single family conforming loan limit.

Neither the law nor regulations set a maximum principal amount for a VA guaranteed home loan, so long as the total loan amount does not exceed the reasonable value of the property securing the loan, and the veteran's present and anticipated income is sufficient to afford the loan payments. As a practical matter, Mr. Chairman, requirements set by secondary market institutions limit the maximum VA loan to four times the guaranty. The current maximum guaranty of $60,000 effectively limits VA housing loans to $240,000.

Increasing the maximum guaranty to $81,000, as proposed by H.R. 1735, would have the effect of increasing the maximum amount lenders are willing to finance to $324,000. If the guaranty were indexed as proposed by H.R. 4065, the VA guaranty would increase to $75,082.50, which is 22.5 percent of the current Freddie Mac conforming loan limit of $333,700. That would increase the effective VA loan limit to $300,330. Thereafter, the VA guaranty would be automatically adjusted annually in tandem with the Freddie Mac loan limit.

VA estimates enactment of H.R. 4065 would produce a loan-subsidy savings to the Veterans Housing Benefit Program Fund of approximately $20.5 million in FY 2005, and a 10-year savings of approximately $71.3 million. Enactment of H.R. 1735 would produce loan-subsidy savings of approximately $22.7 million in FY 2005, and a 10-year savings of approximately $82.6 million.

VA is currently reviewing the results of an independent program evaluation of the VA Home Loan program. The maximum home loan guaranty was an element of this evaluation. We support the concept but reserve our opinion on these two bills until we can complete our analysis of the contractor's final report.

* * * * * * *

H.R. 2206

H.R. 2206 is also known as the "Prisoner of War/Missing in Action National Memorial Act." Section 2(b) of this bill would designate the memorial to former POWs and members of the Armed Forces listed as missing in action to be constructed at the Riverside National Cemetery in Riverside, California, as the Prisoners of War/Missing in Action National Memorial. Section 2(c) of the bill would prescribe that the memorial is not a unit of the National Park System and that the designation of the national memorial shall not be construed to require or permit Federal funds, other than any funds provided for as of the date of enactment of the bill, to be expended for any purpose related to the national memorial.

The memorial will be comprised of a circular plaza located on the east side of the upper lake just inside the entrance to the national cemetery. The centerpiece of the memorial will be a figurative bronze statue of a Vietnam POW. Black granite panels standing on end will be placed to the rear of the circular plaza. The names of all known POW sites, including the total number of prisoners at each location, will be engraved on these panels. The POW sites will be displayed by major conflict or campaign.

The Riverside National Cemetery Memorials and Monuments Commission (RNCMMC) is a private organization that has proposed to erect the memorial and donate it to the National Cemetery Administration (NCA). The Commission is responsible for funding and contracting issues related to this project. The RNCMMC is currently raising funds for the construction and future maintenance of the memorial through donations. The statue for the memorial is finished and is ready for installation once the plaza is completed. NCA approved plans for the project in March 2004 and designated a location for the memorial within cemetery grounds. The RNCMMC anticipates that construction of the plaza will commence this summer and plans to dedicate the memorial six months after construction begins.

The National Park Service (NPS) currently maintains and operates the National POW Museum located at the Andersonville National Historic Site in the State of Georgia. In 1970, Congress authorized the establishment of the Andersonville National Historic Site pursuant to Public Law 91–465, 84 Stat. 989, in order to "provide an understanding of the overall prisoner-of-war story of the Civil War, to interpret the role of prisoner-of-war camps in history, to commemorate the sacrifice of Americans who lost their lives in such camps, and to preserve the monuments located therein." The park and the National POW Museum currently serve as a national memorial to all American POWs. Accordingly, we recommend that NPS have an opportunity to comment on this legislation.

We estimate that there would be no costs to VA associated with designation of a national memorial at Riverside National Cemetery. We have no objection to desig-

nating the memorial as provided for in section 2(b). However, we are concerned that section 2(c) of the bill would restrict use of Federal funds to maintain the memorial in the event that private funds are not adequate for this purpose. Section 2(c) would apparently preclude VA from expending any Federal funds for future maintenance of the memorial under any circumstances. Although the RNCMMC is raising funds to cover the future costs to operate and maintain the memorial, should the donating organization become unable to meet the future costs associated with maintenance and repair of the memorial, VA would be prohibited by section 2(c) from using Federal funds to provide such maintenance or repairs.

Without authority to use Federal funds for the care and maintenance of the memorial, we do not support this legislation.

* * * * * * *

H.R. 2612

The next bill I will discuss, Mr. Chairman, is H.R. 2612. This measure would authorize the Secretary to provide specially adapted housing grants to veterans with permanent and total service-connected disabilities due to the loss or loss of use of both upper extremities such as to preclude use of the arms at and below the elbows.

VA favors enactment of H.R. 2612, provided that the Congress can find offsetting savings.

Under current law, veterans who are entitled to compensation under chapter 11 of title 38, United States Code, for certain permanent and total service-connected disabilities described in section 2101(a) of title 38 are eligible for grants of up to $50,000 to acquire homes which are equipped with special features made necessary by the nature of their disabilities. The qualifying disabilities generally involve either the loss or loss of use of both lower extremities, or the loss or loss of use of one lower extremity together with certain other conditions specified in the statute.

H.R. 2612 would add "the loss, or loss of use, of both upper extremities such as to preclude use of the arms at and below the elbows" as a disability that qualifies for this grant.

Currently, veterans who have lost or lost the use of both hands are eligible for a special housing adaptations grant of up to $10,000. That grant, authorized by section 2101(b) of title 38, United States Code, will pay for the adaptations to veterans' homes which may be necessary by reason of the veterans' disabilities. The grant authorized by section 2101(a) will pay for up to 50 percent of the total cost to the veterans of the adapted homes and necessary land. Veterans who are eligible for the grant under section 2101(a) may not receive a grant under section 2101(b). Therefore, if H.R. 2612 is enacted, veterans who have lost or lost the use of their arms at and below the elbow would qualify for the full $50,000 specially adapted housing grant rather than the more limited $10,000 grant.

VA supports providing the increased benefit for this class of severely-injured veterans.

VA estimates that approximately 12 additional veterans per year would become eligible for the increased grant if H.R. 2612 is enacted. This would produce costs of $480,000 per year, with a 10-year cost of $4.8 million.

* * * * * * *

H.R. 4172

Mr. Chairman, H.R. 4172 would amend title 38 in three respects with regard to benefits for radiation-related disabilities and deaths.

Section 1(a) of H.R. 4172 would add cancer of the bone, brain, colon, lung, and ovary to the list of diseases for which a presumption of service connection is available for a radiation-exposed veteran. VA amended its regulations effective March 26, 2002, by adding these diseases to the list of diseases for which a presumption of service connection is available for veterans who participated in a radiation-risk activity while serving on active duty or as a member of a reserve component while on active duty for training or inactive duty training. VA did so in order to ensure that veterans who may have been exposed to radiation during military service do not have a higher burden of proof than civilians exposed to ionizing radiation who may be entitled to compensation for these cancers under the Radiation Exposure Compensation Act (RECA), Public Law 101–426, and the Energy Employees Occupational Illness Compensation Program Act of 2000, Public Law 106–398. Section 1(a) of the bill would merely codify in statute this provision in the current regulations.

Section 1(b) of H.R. 4172 would also codify another provision in existing VA regulations. It would amend the definition of "radiation-risk activity" in 38 U.S.C. § 1112(c)(3)(B) to include service in a capacity which, if performed as an employee

of the Department of Energy, would qualify the individual as a member of the Special Exposure Cohort pursuant to 42 U.S.C. § 7384l(14). The Energy Employees Occupational Illness Compensation Program Act of 2000 authorizes compensation and benefits for certain Department of Energy (DOE) employees and DOE contractor or subcontractor employees who were employed at certain DOE facilities during certain time periods. Under that Act, if a "member of the Special Exposure Cohort" develops a "specified cancer" after beginning employment at one of these facilities, the cancer is presumed to have been sustained in the performance of duty and is compensable. Effective March 26, 2002, VA expanded the definition of "radiation-risk activity" in 38 C.F.R. § 3.309(d)(3)(ii) to include the same employment criteria as required pursuant to 42 U.S.C. § 7384l(14) to qualify as a "member of the Special Cohort." VA does not object to the statutory codifications in sections 1(a) and 1(b) of the bill.

Section 2(a) of H.R. 4172 would amend 38 U.S.C. § 1112(c) to provide that a radiation-exposed veteran who receives a RECA payment would be eligible for VA compensation for a disease presumed to be service connected under section 1112(c). Section 2(b) would amend 38 U.S.C. § 1112(c) to provide that a person who receives a RECA payment would be entitled to receive dependency and indemnity compensation (DIC). VA compensation and DIC would be offset by the amount received under RECA. VA favors enactment, provided that Congress can find an offset, of section 2 because it would enable veterans to receive ongoing compensation for the continued effects of their radiation-exposed disabilities. Section 2 would also be consistent with 38 U.S.C. § 1151(b), which provides for an offset of veterans benefits against potentially-duplicative awards pursuant to the Federal Tort Claims Act. However, we would also recommend amendment to section 6(e) of RECA, which currently provides that acceptance of a RECA payment "shall be in full satisfaction of all claims of or on behalf of that individual against the United States . . . that arise out of exposure to radiation, from atmospheric nuclear testing, in the affected area . . . at any time during the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4(a), exposure to radiation in a uranium mine, mill, . . . or exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device."

VA estimates that enactment of H.R. 4172 would not produce any benefit costs until Fiscal Year 2008. The projected 10-year cost of this measure is approximately $29.6 million.

* * * * * * *

H. R. 4173

Mr. Chairman, H.R. 4173 would require VA to enter into a contract with an organizational entity described therein that would study and prepare a report on employment placement, retention, and advancement of recently-separated servicemembers. The organization would analyze employment-related data to determine whether the employment obtained by recently-separated veterans is commensurate with their training, whether these veterans received educational assistance or training under the MGIB or VA's Vocational Rehabilitation and Employment programs, and whether transition assistance services helped the veterans in obtaining civilian employment. It would also analyze trends in the hiring of veterans in the private sector and identify recently-separated veterans that have reached senior level management positions. The contract would require that the contractor submit the study to VA not later than 2 years after the date on which the contract was made. The contract would not exceed $490,000 and would be funded through the VA's compensation and pension appropriations.

VA supports the goals of H.R. 4173. We believe such a study should be done in consultation with the Department of Labor (DOL) and should not be duplicative of DOL requirements to study modifications to certain employment reforms. We note, however, that VA has under consideration long-term plans for a broad-based study of the full panoply of veterans' transition benefits, including but not limited to employment. VA believes it may be advantageous to broaden a study contract beyond what is contemplated in the bill. VA also believes it would be more appropriate to fund this study out of the Readjustment Benefits account—which provides funding for educational training and vocational rehabilitation. While the funding limit in H.R. 4173 is sufficient for the work contemplated in the bill, additional funding may be needed in the future for further studies.

We further note that the "Qualified Entity" provision may be too narrowly tailored to provide fair competition. In addition, the bill purports to study "recently separated servicemembers," defining "recently separated" as within the previous 16 years. We believe this timeframe is too long, since there have been many significant enhancements to employment programs for separating servicemembers over the past sixteen years. Within that timeframe, Congress put into place the successful

transition assistance program, which was further enhanced based on the findings of the "Principi Commission." Continued improvements to these programs are an ongoing process. Because of these enhancements, the results of this study would not represent the changes brought about by these more recent programs. The study would be more significant if it was limited to measuring the impact of current programs and services. Further, because the nature of military service has changed dramatically over the past three years, an evaluation of sixteen-year-old data could erode the otherwise beneficial results of such a study.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 3, 2004

Hon. CHRISTOPHER H. SMITH
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed table showing the direct spending effects of H.R. 1716, the Veterans Earn and Learn Act of 2004. A detailed explanation of the basis of the estimate will be forthcoming shortly.

H.R. 1716 would affect several veterans programs, including housing readjustment benefits, compensation, pensions, and burial. CBO estimates that enacting this legislation would decrease direct spending for veterans programs by $15 million over the 2005–2009 period and by $19 million over the 2005–2014 period. In addition, CBO estimates that discretionary spending resulting from H.R. 1716 would be less than $500,000 a year over the 2005–2009 period.

H.R. 1716 contains no intergovernmental mandates as defined by the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. The bill contains a private-sector mandate, but CBO estimates that the annual cost of this mandate would not exceed the threshold established in UMRA ($120 million in 2004, adjusted annually for inflation).

If you wish further details on this estimate, we will be happy to provide them. The CBO staff contact is Sarah T. Jennings, who can be reached at 226–2840.

Sincrely,

DOUGLAS HOLTZ-EAKIN
Director

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 3, 2004

Estimated Changes in Direct Spending Under H.R. 1716

By Fiscal Year, in Millions of Dollars

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
HOUSING											
Spending Under Current Law	-2,036	-144	-140	-144	-149	-153	-152	-155	96	98	165
Proposed Changes	0	-39	-41	-42	-42	-43	-44	-45	*	1	9
Spending Under H.R. 1716	-2,036	-183	-181	-186	-191	-196	-196	-200	96	99	174
VETERANS' READJUSTMENT BENEFITS											
Spending Under Current Law	2,665	2,852	3,008	3,166	3,315	3,458	3,590	3,737	3,853	3,974	4,098
Proposed Changes	0	4	40	42	48	51	56	-7	5	5	5
Spending Under H.R. 1716	2,665	2,856	3,048	3,208	3,363	3,509	3,646	3,730	3,858	3,979	4,103
COMPENSATION, PENSION, AND BURIAL BENEFITS											
Spending Under Current Law	30,585	35,858	33,713	31,472	34,366	34,754	35,180	38,339	33,919	37,254	37,944
Proposed Changes	0	2	1	1	1	2	2	2	2	2	2
Spending Under H.R. 1716	30,585	35,860	33,714	31,473	34,367	34,756	35,182	38,341	33,921	37,256	37,946
Total Proposed Changes[1]	0	-33	1	1	6	9	14	-50	8	7	16

SOURCE: Congressional Budget Office.
NOTE: * = less than $500,000.
[1] Five- and 10-year costs in the text differ slightly from a summation of the annual costs shown here because of rounding.

STATEMENT OF FEDERAL MANDATES

The preceding Congressional Budget Office cost estimate states that the bill contains no intergovernmental or private sector mandates that would exceed the threshold established in UMRA as defined in the Unfunded Mandates Reform Act.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART II—GENERAL BENEFITS

* * * * * * *

CHAPTER 11—COMPENSATION FOR SERVICE–CONNECTED DISABILITY OR

* * * * * * *

SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

* * * * * * *

§ 1112. Presumptions relating to certain diseases and disabilities

(a) * * *

* * * * * * *

(c)(1) * * *

(2) The diseases referred to in paragraph (1) of this subsection are the following:

(A) * * *

* * * * * * *

(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.

(3) For the purposes of this subsection:

(A) * * *

(B) The term ''radiation-risk activity'' means any of the following:

(i) * * *

* * * * * * *

(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)).

(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.

* * * * * * *

SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

§ 1151. Benefits for persons disabled by treatment or vocational rehabilitation

(a) * * *

(b)*(1)* Where an individual is, on or after December 1, 1962, awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28 or, on or after December 1, 1962, enters into a settlement or compromise under sec-

tion 2672 or 2677 of title 28 by reason of a disability or death treated pursuant to this section as if it were service-connected, then *(except as otherwise provided in paragraph (2))* no benefits shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability or death becomes final until the aggregate amount of benefits which would be paid but for this subsection equals the total amount included in such judgment, settlement, or compromise.

(2) In any case in which an amount of a judgment, settlement, or compromise covered by paragraph (1) is specifically designated for a benefit other than as compensation for loss of earning capacity or for pain and suffering, such amount shall be offset under paragraph (1) only against the comparable benefit provided under this title (if any). Any amounts attributable to pain and suffering, loss of earnings capacity, or loss of consortium or society shall be offset against benefits otherwise payable under this chapter, and any amounts attributable to wrongful death shall be offset against benefits otherwise payable under chapter 13 of this title.

(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 31, relating to vocational rehabilitation.

(3) Chapter 39, relating to automobiles and adaptive equipment.

* * * * * * *

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE–CONNECTED DEATHS

* * * * * * *

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

* * * * * * *

§ 1310. Deaths entitling survivors to dependency and indemnity compensation

(a) * * *

* * * * * * *

(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.

* * * * * * *

CHAPTER 15—PENSION FOR NON–SERVICE–CONNECTED DISABILITY OR DEATH OR FOR SERVICE

* * * * * * *

§ 1503. Determinations with respect to annual income

(a) In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

(1) * * *

* * * * * * *

(9) in the case of a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, amounts equal to amounts paid by such veteran or surviving spouse for such course of education or vocational rehabilitation or training, including (A) amounts paid for tuition, fees, books, and materials, and (B) in the case of such a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in connection with the pursuit of such course of education or vocational rehabilitation or training, to the extent that such amounts exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available); ¿and

(10) in the case of a child, any current-work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of—

(A) * * *

(B) if the child is pursuing a course of postsecondary education or vocational rehabilitation or training, the amount paid by such child for such course of education or vocational rehabilitation or training, including the amount paid for tuition, fees, books, and materials¿. *; and*

(11) lump-sum proceeds of any life insurance policy on a veteran, for purposes of pension under subchapter III of this chapter.

* * * * * * *

CHAPTER 20—BENEFITS FOR HOMELESS VETERANS

* * * * * * *

SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING

§ 2051. General authority

(a) * * *

* * * * * * *

(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.

§ 2052. Requirements

(a) * * *

* * * * * * *

(c) Such a project—

(1) may include space for neighborhood retail services, *other commercial activities,* or job training programs; and

* * * * * * *

CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

* * * * * * *

§ 2101. Veterans eligible for assistance

¿(a) The Secretary is authorized, under such regulations as the Secretary may prescribe, to assist any veteran who is entitled to compensation under chapter 11 of this title for permanent and total service-connected disability—

¿(1) 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, or

¿(2) which includes (A) blindness in both eyes, having only light perception, plus (B) loss or loss of use of one lower extremity, or

¿(3) due to the loss or loss of use of one lower extremity together with (A) residuals of organic disease or injury, or (B) 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,

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. The regulations of the Secretary shall include, but not be limited to, provisions requiring findings that (1) it is medically feasible for such veteran to reside in the proposed housing unit and in the proposed locality; (2) the proposed housing unit bears a proper relation to the veteran's present and anticipated income and expenses; and (3) the nature and condition of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes.

¿(b)(1) Subject to paragraph (2) of this subsection, the Secretary, under regulations which the Secretary shall prescribe, shall assist any veteran (other than a veteran who is eligible for assistance under subsection (a) of this section) who is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability which—

¿(A) is due to blindness in both eyes with 5/200 visual acuity or less, or

¿(B) includes the anatomical loss or loss of use of both hands,

in acquiring such adaptations to such veteran's residence as are determined by the Secretary to be reasonably necessary because of such disability or 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) Assistance under paragraph (1) of this subsection may be provided only to a veteran who the Secretary determines 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, 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)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

¿(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.

(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.

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CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

Sec.
2400. Establishment of National Cemetery Administration; composition of Administration.

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2412. Arlington National Cemetery: eligibility of certain persons for burial.

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§ 2412. Arlington National Cemetery: eligibility of certain persons for burial

(a)(1) The remains of a member or former member of a reserve component of the Armed Forces who at the time of death was under 60 years of age and who, but for age, would have been eligible at the time of death for retired pay under chapter 1223 of title 10 may be buried in Arlington National Cemetery on the same basis as the remains of members of the Armed Forces entitled to retired pay under that chapter.

(2) The remains of the dependents of a member whose remains are permitted under paragraph (1) to be buried in Arlington National Cemetery may be buried in that cemetery on the same basis as dependents of members of the Armed Forces entitled to retired pay under such chapter 1223.

(b)(1) The remains of a member of a reserve component of the Armed Forces who dies in the line of duty while performing active duty for training or inactive duty training may be buried in Arlington National Cemetery on the same basis as the remains of a member of the Armed Forces who dies while on active duty.

(2) The remains of the dependents of a member whose remains are permitted under paragraph (1) to be buried in Arlington National Cemetery may be buried in that cemetery on the same basis as dependents of members on active duty.

PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 30—ALL–VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

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SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

* * * * * * *

§ 3032. Limitations on educational assistance for certain individuals

(a) * * *

* * * * * * *

(c)(1) ¿Except as provided in paragraph (2) *Subject to the succeeding provisions* of this subsection, the amount of the monthly educational assistance allowance payable to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

(A) for each of the first six months of the individual's pursuit of such program, ¿75 *85* percent of the monthly educational assistance allowance otherwise payable to such individual under this chapter;

(B) for each of the second six months of the individual's pursuit of such program, ¿55 *65* percent of such monthly educational assistance allowance; and

(C) for each of the months following the first 12 months of the individual's pursuit of such program, ¿35 *45* percent of such monthly educational assistance allowance.

* * * * * * *

(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's entitlement under this chapter (and chapter 34 of this title, if applicable) shall be charged at the applicable rate under paragraph (3).

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CHAPTER 32—POST–VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER III—ENTITLEMENT; DURATION

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§ 3233. Apprenticeship or other on-job training

(a) ¿Except as provided in subsection (b) *Subject to the succeeding provisions* of this section, the amount of the monthly benefit payment to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

(1) for each of the first six months of the individual's pursuit of such program, ¿75 *85* percent of the monthly benefit payment otherwise payable to such individual under this chapter;

(2) for each of the second six months of the individual's pursuit of such program, ¿55 *65* percent of such monthly benefit payment; and

(3) for each of the months following the first 12 months of the individual's pursuit of such program, ¿35 *45* percent of such monthly benefit payment.

* * * * * * *

(e)(1) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly benefit payment payable under this section for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

(A) the total amount of monthly benefit payments that could have been paid to the individual under this section for the successful completion of that program, and

(B) the amount of monthly benefit payments paid to the individual for the program under this section.

(2) In the case of a lump sum payment paid to an individual under paragraph (1), the individual's entitlement under this chapter shall be charged at the applicable rate under subsections (c) and (d).

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CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER I—PURPOSE; DEFINITIONS

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§ 3452. Definitions

For the purposes of this chapter and chapter 36 of this title—

(a) * * *

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(e) The term "training establishment" means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, ¿or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937, popularly known as the "National Apprenticeship Act" (29 U.S.C. 50 et seq.), *any State board of vocational education, any Federal or State apprenticeship registration agency, any joint apprenticeship committee established pursuant to the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.),* or any agency of the Federal Government authorized to supervise such training.

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CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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SUBCHAPTER I—STATE APPROVING AGENCIES

* * * * * * *

§ 3672. Approval of courses

(a) * * *

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(c)*(1)* In the case of programs of apprenticeship where—

¿(1) *(A)* the *apprenticeship* standards have been approved by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the "National Appren-

ticeship Act")(29 U.S.C. 50a), as a national apprenticeship program for operation in more than one State, and

¿(2) *(B)* the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the Secretary shall act as a "State approving agency" as such term is used in section 3687(a)(1) of this title and shall be responsible for the approval of all such programs.

(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, 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 Secretary of Labor shall notify the Secretary upon the successful completion of a program of apprenticeship by a veteran, eligible veteran, or eligible person, as the case may be.

(d)(1) Pursuant to regulations prescribed by the Secretary in consultation with the Secretary of Labor, the Secretary and State approving agencies shall actively promote the development ¿of programs of training on the job (including programs of apprenticeship) *of apprenticeship and on the job training programs* for the purposes of sections 3677 and 3687 of this title and shall utilize the services of disabled veterans' outreach program specialists under section 4103A of this title to promote the development of such programs. *The Secretary of Labor shall provide such assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.*

* * * * * * *

§ 3675. Approval of accredited courses

(a) * * *

* * * * * * *

(c)(1) * * *

* * * * * * *

(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.

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§ 3677. Approval of training on the job

(a) * * *

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(d)(1) The sponsor of any program of training on the job shall submit notice to the Secretary upon the successful completion of the program by the veteran, eligible veteran, or eligible person, as the case may be.

(2) The term "training on the job" includes training commonly referred to as "on-job learning".

(e)(1) The Secretary shall conduct a pilot program under which, the Secretary shall operate 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) Amounts of educational assistance, monthly benefit payments, and training assistance allowance under chapters 30, 31, 32, 34, and 35 of this title, as the case may be, shall be payable to such employees during each month of training under the program.

(3)(A) Not later than 3 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.

(4) The pilot project shall terminate 5 years after the date of the implementation of the project.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

* * * * * * *

§ 3687. Apprenticeship or other on-job training

(a) * * *

(b)(1) * * *

[Effective July 1, 2004, paragraph (2) of section 3687(b), as amended by section 302(d) of Public Law 108–183 (117 Stat. 2659), provides as follows:]

(2) The monthly training assistance allowance of an eligible person pursuing a program described under subsection (a) shall be ¿$574 for the first six months, $429 for the second six months, $285 for the third six months, *$650 for the first six months, $507 for the second six months, $366 for the third six months,* and $144 for the fourth and any succeeding six-month period of training.

* * * * * * *

(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) such training assistance allowance for the period of months involved, to

(B) the applicable monthly educational assistance allowance payable to the individual for such period of months.".

(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 for purposes of chapter 34 of this title who is entitled, under chapter 30 or 34 of this title, as the case may be, to monthly educational assistance allowances payable under section 3015(e) of this title, or

(B) an eligible person for purposes chapter 35 of this title, who is entitled, under section 3510 of this title, to monthly educational assistance allowances payable under section 3532(a) of this title

as the case may be.

(f)(1) In the case of an individual (as defined in subsection (e)(3)) who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

(A) the total amount of educational assistance allowances that could have been paid to the individual under subsection (a) for the successful completion of that program, and

(B) the amount of educational assistance allowance paid to the individual for the program under subsection (a).

(2) In the case of a lump sum payment paid to an individual under paragraph (1), the entitlement of the individual under chapter 30, 34, or 35 of this title, as the case may be, shall be charged at the applicable rate under subsection (e).

* * * * * * *

§ 3694. Use of other Federal agencies

¿In carrying out *(a) IN GENERAL.—In carrying out* the Secretary's functions under this chapter or chapter 34 or 35 of this title, the Secretary may utilize the facilities and services of any other Federal department or agency. Any such utilization shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(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.

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CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

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§ 3703. Basic provisions relating to loan guaranty and insurance

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 3710 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

(i)(I) * * *

* * * * * * *

(IV) in the case of any loan of more than $144,000 for a purpose specified in clause (1), (2), (3), (6), or (8) of section 3710(a) of this title, the lesser of ¿$60,000 *the maximum guaranty amount (as defined in subparagraph (C))* or 25 percent of the loan; or

(B) The maximum amount of guaranty entitlement available to a veteran for purposes specified in section 3710 of this title shall be $36,000, or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, ¿$60,000 *the maximum guaranty amount (as defined in subparagraph (C))*, reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 3702(b) of this title.

(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.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

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SUBCHAPTER II—EFFECTIVE DATES

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§ 5110. Effective dates of awards

(a) * * *

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(d)¿(1) The effective date of an award of ¿death compensation or dependency and indemnity compensation *death compensation, dependency and indemnity compensation, or death pension* for which application is received within one year from the date of death shall be the first day of the month in which the death occurred.

¿(2) The effective date of an award of death pension for which application is received within 45 days from the date of death shall be the first day of the month in which the death occurred.

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CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

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§ 5304. Prohibition against duplication of benefits

(a)(1) Except *as provided in section 1414 of title 10 or* to the extent that retirement pay is waived under other provisions of law, not more than one award of pension, compensation, emergency officers', regular, or reserve retirement pay, or initial award of naval pension granted after July 13, 1943, shall be made concurrently to any person based on such person's own service or concurrently to any person based on the service of any other person.

* * * * * * *

§ 5305. Waiver of retired pay

¿Any *Except as provided in section 1414 of title 10, any* person who is receiving pay pursuant to any provision of law providing retired or retirement pay to persons in the Armed Forces, or as a commissioned officer of the National Oceanic and Atmospheric Administration or of the Public Health Service, and who would be eligible to receive pension or compensation under the laws administered by the Secretary if such person were not receiving such retired or retirement pay, shall be entitled to receive such pension or compensation upon the filing by such person with the department by which such retired or retirement pay is paid of a waiver of so much of such person's retired or retirement pay as is equal in amount to such pension or compensation. To prevent duplication of payments, the department with which any such waiver is filed shall notify the Secretary of the receipt of such waiver, the amount waived, and the effective date of the reduction in retired or retirement pay.

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PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

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CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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SUBCHAPTER I—ORGANIZATION AND JURISDICTION

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§ 7253. Composition

(a) * * *

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

(A) * * *

* * * * * * *

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

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

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

* * * * * * *

(h) TEMPORARY EXPANSION OF COURT.—(1) * * *

* * * * * * *

(4) A judge of the Court as of ¿the date of the enactment of this subsection *December 27, 2001,* who was appointed to the Court before January 1, 1991, may accept appointment as a judge of the Court under this subsection notwithstanding that the term of office of the judge on the Court has not yet expired under this section. The term of office of an incumbent judge who receives an appointment as described in the preceding sentence shall be 15 years, which includes any period remaining in the unexpired term of the judge. Any service following an appointment under this subsection shall be treated as though served as part of the original term of office of that judge on the Court.

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SECTION 16131 OF TITLE 10, UNITED STATES CODE

§ 16131. Educational assistance program: establishment; amount

(a) * * *

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(d)(1) ¿Except as provided in paragraph (2) *Subject to the succeeding provisions of this subsection*, the amount of the monthly educational assistance allowance payable to a person pursuing a full-time program of apprenticeship or other on-the-job training under this chapter is—

(A) for each of the first six months of the person's pursuit of such program, ¿75 *85* percent of the monthly educational assistance allowance otherwise payable to such person under this chapter;

(B) for each of the second six months of the person's pursuit of such program, ¿55 *65* percent of such monthly educational assistance allowance; and

(C) for each of the months following the first 12 months of the person's pursuit of such program, ¿35 *45* percent of such monthly educational assistance allowance.

* * * * * * *

(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's entitlement under this chapter shall be charged at the applicable rate under paragraph (3).

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