Public Law 100-322
100th Congress

An Act

To amend title 38, United States Code, to revise, improve, and extend various veterans' programs, and for other purposes.

May 20, 1988
[H.R. 2616]

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

Veterans' Benefits and Services Act of 1988.
38 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits and Services Act of 1988".

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

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
Sec. 3. Definition of Administrator.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

Sec. 101. Eligibility for outpatient services.
Sec. 102. Eligibility for domiciliary care.
Sec. 103. Definition of nursing home care.
Sec. 104. Expansion of contract-care authority.
Sec. 105. Health care outside the United States for veterans with service-connected disabilities.
Sec. 106. Internment period required for eligibility for dental care for former prisoners of war.
Sec. 107. Readjustment counseling program.
Sec. 108. Beneficiary travel program.

PART B—PILOT PROGRAMS AND REPORTS

Sec. 111. Adult day health-care program.
Sec. 112. Report on use of contract-care authorities.
Sec. 113. Pilot program of mobile health-care clinics.
Sec. 114. Modification of report on care furnished to veterans having chronic mental illness disabilities.
Sec. 115. Pilot program of community-based residential care for homeless chronically mentally ill and other veterans.
Sec. 116. Reports on assistance to homeless veterans.

PART C—MATTERS RELATING TO AIDS

Sec. 121. Confidentiality of medical records.
Sec. 122. Nondiscrimination.
Sec. 123. Information and training concerning AIDS prevention.
Sec. 124. Restriction on testing for infection with the human immunodeficiency virus.

PART D—OTHER MATTERS

Sec. 131. Definition of Veterans' Administration medical facilities to include certain recreational facilities.
Sec. 132. Veterans' Administration assistance with rehabilitation activities.
Sec. 133. Rules and regulations relating to Veterans' Administration health care.
Sec. 134. Per diem rates for care in State homes.
Sec. 135. Medical research.
Sec. 136. Conversion of underused space to domiciliary care beds.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

Sec. 201. Health-care quality assurance activities.
Sec. 202. Hospital cost collections.
Sec. 203. Tort claims.
Sec. 204. Nonprofit research corporations.
Sec. 205. Nursing home revolving fund.
Sec. 206. State home construction grants.

PART B—PAY AND OTHER PERSONNEL BENEFITS

Sec. 211. Additional pay authorities for nurses to be available for pharmacists and occupational therapists.
Sec. 212. Recruitment and retention bonus pay.
Sec. 213. On-call pay.
Sec. 214. Premium pay for Saturday work.
Sec. 215. Report on effect of certain pay and benefits amendments.
Sec. 216. Health Professionals Educational Assistance Program.
Sec. 217. Pay scales and awards for Department of Medicine and Surgery employees.

PART C—PERSONNEL ADMINISTRATION

Sec. 221. Disciplinary matters as to certain appointees.
Sec. 222. Personnel ceilings for noncareer research personnel.
Sec. 223. Authority to waive licensure and internship requirements for certain health-care personnel.
Sec. 224. Nurse representation on policymaking committees.

PART D—REPORTS

Sec. 231. Study of pay and other personnel management practices.
Sec. 232. Report on certain activities relating to training in geriatrics of medical and other health-professional schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

Sec. 301. Specially adapted housing assistance.
Sec. 302. Automobile assistance allowance.
Sec. 303. Burial benefit for service-connected deaths.
Sec. 304. Effective date.

PART B—COMPENSATION-RELATED PROVISIONS

Sec. 311. Definition of former prisoner of war.
Sec. 312. Presumption of service connection for certain disabilities for former prisoners of war.
Sec. 313. Presumption of service connection for lupus.
Sec. 314. Reinstated entitlement for certain survivors.

PART C—EDUCATION PROVISIONS

Sec. 321. Measurement of laboratory instruction.
Sec. 322. Authority to waive compliance surveys.
Sec. 323. Effective date of awards under the post-Vietnam era veterans' education assistance program.

PART D—INSURANCE PROVISIONS

Sec. 331. Authority for annuity adjustments.
Sec. 332. Exemptions from State taxation.
Sec. 333. Direct administration of veterans' mortgage life insurance.

PART E—MEMORIAL AFFAIRS

Sec. 341. National cemetery grave markers.
Sec. 342. Contributions for certain projects.
Sec. 343. State veterans' cemetery construction grants.
Sec. 344. Grave liners.
Sec. 345. American Battle Monuments Commission foreign currency fluctuations.
Sec. 346. Transfer of the Arizona Veterans Memorial Cemetery to the Veterans' Administration.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

Sec. 401. Integrity of contracting out process at health-care facilities.
Sec. 402. Standardization of medical and pharmaceutical items.
Sec. 403. Requirements for the procurement of health-care items.
Sec. 404. Multiyear procurement of certain medical items.

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

Sec. 411. Sequestration rules applicable to veterans' programs.
Sec. 412. Child-care services at Veterans' Administration facilities.
Sec. 413. Advisory Committee on Native-American Veterans.
Sec. 414. Management of canteen service.
Sec. 415. Technical amendments to chapter 37.

PART C—REAL PROPERTY

Sec. 421. Limitation on transfer of property to other agencies.
Sec. 422. Congressional procedures for approval of medical facility acquisition and construction.
Sec. 423. Use of former hospital in Minot, North Dakota.
Sec. 424. Naming of Veterans' Administration Medical Center in Shreveport, Louisiana.

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

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

SEC. 3. DEFINITION OF ADMINISTRATOR. 38 USC 101 note.

For purposes of this Act, the term "Administrator" means the Administrator of Veterans' Affairs.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

SEC. 101. ELIGIBILITY FOR OUTPATIENT SERVICES.

(a) CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Paragraph (1) of section 612(a) is amended—

(1) in the matter preceding clause (A), by striking out "may furnish" and inserting in lieu thereof "shall furnish on an ambulatory or outpatient basis";

(2) by striking out "and" at the end of clause (A);

(3) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

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

"(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 351 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section).".

(b) OTHER VETERANS.—Section 612(a) is further amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (3) as paragraph (6); and

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

"(2) The Administrator shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

"(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

"(B) to any veteran who is eligible for hospital care under section 610(a) of this title and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Administrator determines are needed—

"(A) to any veteran who is a former prisoner of war;

"(B) to any veteran of the Mexican border period or of World War I; and

"(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(4) Subject to subsection (f) of this section, the Administrator may furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 610 of this title and who is not otherwise eligible for such services under this subsection.

"(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

"(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Administrator may authorize a longer period in any case if the Administrator finds that a longer period is required by reason of the disability being treated.".

(c) PRIORITY FOR OUTPATIENT SERVICES.—Section 612(i) is amended by striking out paragraphs (1) through (6) and inserting in lieu thereof the following:

"(1) To a veteran who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section.

"(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling, or (B) who is being examined to determine the existence or severity of a service-connected disability.

"(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 610(e) of this title.

"(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

"(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of nec-

essary care as determined under section 622(a)(1)(C) of this title.".

(d) HOME HEALTH SERVICES.—(1) Section 617 is amended—

(A) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(B) by inserting after the section heading the following new subsection (a):

"(a)(1) As part of medical services furnished to a veteran under section 612(a) of this title, the Administrator may furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the veteran's disability.

"(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

"(A) $2,500 in the case of medical services furnished under paragraph (1) of section 612(a) of this title; or

"(B) $600 in the case of medical services furnished under any other provision of section 612 of this title.".

(2) Subsection (k) of section 612 is transferred to section 617 (as amended by paragraph (1)), inserted at the end of subsection (a) (as added by paragraph (1)), and redesignated as paragraph (3).

(3) The heading of section 617 is amended to read as follows:

"§ 617. Home health services; invalid lifts and other devices".

(e) CONFORMING AMENDMENTS.—(1) Section 612(f) is amended—

(A) by striking out paragraphs (1), (2), and (3);

(B) by striking out "(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection)" and inserting in lieu thereof "(1) The Administrator may not furnish medical services under subsection (a) of this section (including home health services under section 617 of this title)";

(C) by striking out "subparagraph (B) of this paragraph" and inserting in lieu thereof "paragraph (2) of this subsection";

(D) by redesignating subparagraphs (B) through (G) as paragraphs (2) through (7), respectively;

(E) by striking out "this paragraph" each place it appears in such paragraphs and inserting in lieu thereof "this subsection";

(F) in paragraph (2) (as so redesignated), by striking out "this subsection and who is required under subparagraph (A)" and inserting in lieu thereof "subsection (a) of this section and who is required under paragraph (1)";

(G) in paragraph (3) (as so redesignated), by striking out "furnished under this subsection" and inserting in lieu thereof "furnished under subsection (a) of this section"; and

(H) in paragraph (5) (as so redesignated), by striking out "under this subsection" and inserting in lieu thereof "under section 617 of this title".

(2) Section 612 is further amended—

(A) in the first sentence of subsection (b)(4), by striking out "subsections (a) and (f) of this section" and inserting in lieu

thereof "subsection (a) of this section (other than paragraphs (3)(B) and (3)(C) of that subsection)"; and

(B) by striking out subsection (g).

(3) Section 603(a)(2) is amended—

(A) in clause (B), by striking out "section 612(f)(1)(A)(ii) of this title" and inserting in lieu thereof "section 612(a)(4) of this title, for a purpose described in section 612(a)(5) of this title"; and

(B) in clause (C), by striking out "section 612(g)" and inserting in lieu thereof "section 612(a)(3) (other than a veteran who is a former prisoner of war)".

(f) TECHNICAL AMENDMENTS.—Section 612(b)(1)(B) is amended—

(1) in clause (i), by striking out "at time of" and inserting in lieu thereof "at the time of the veteran's";

(2) in clause (ii), by striking out "one hundred and eighty days" and inserting in lieu thereof "180 days";

(3) in clause (iii), by striking out "ninety days" each place it appears and inserting in lieu thereof "90 days"; and

(4) in clause (iv), by striking out "ninety-day" and inserting in lieu thereof "90-day".

(g) REPEAL OF DATED PROVISIONS; GRANDFATHER PROVISION.—(1) Section 612 is amended—

(A) in subsection (b)(1), by striking out subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively; and

(B) by striking out subsection (e).

38 USC 612 note.

(2) Any disability of a veteran of the Spanish-American War, upon application for outpatient medical services under section 612 or 624 of title 38, United States Code, shall be considered for the purposes thereof to be a service-connected disabilty and, for the purposes of section 612(b) of such title, to be compensable in degree.

(h) CLERICAL AMENDMENTS.—(1) The heading of section 612 is amended to read as follows:

"§ 612. Eligibility for outpatient services".

(2) The table of sections at the beginning of chapter 17 is amended—

(A) by striking out the item relating to section 612 and inserting in lieu thereof the following:

"612. Eligibility for outpatient services.";

and

(B) by striking out the item relating to section 617 and inserting in lieu thereof the following:

"617. Home health services; invalid lifts and other devices.".

38 USC 603 note.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the furnishing of medical services to veterans who apply for such services after June 30, 1988.

SEC. 102. ELIGIBILITY FOR DOMICILIARY CARE.

(a) REVISED ELIGIBILITY.—Subsection (b) of section 610 is amended to read as follows:

"(b)(1) The Administrator may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Administrator determines is needed for the purpose of the furnishing of medical services to the veteran.

"(2) This subsection applies in the case of the following veterans:

"(A) Any veteran whose annual income (as determined under section 503 of this title) does not exceed the maximum annual

rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(B) Any veteran who the Administrator determines has no adequate means of support.".

(b) CONFORMING AMENDMENT.—Section 622(g) is amended by striking out "sections 610(b)(2) and" and inserting in lieu thereof "section".

(c) SAVINGS PROVISION.—The amendment made by subsection (a) shall not limit or restrict the eligibility for domiciliary care of a veteran who was a patient or a resident in a State home facility or a Veterans' Administration domiciliary facility during the period beginning on January 1, 1987, and ending on April 1, 1988. 38 USC 610 note.

SEC. 103. DEFINITION OF NURSING HOME CARE.

(a) CLARIFICATION OF DEFINITION.—Section 101(28) is amended—

(1) by striking out "skilled" in the first sentence; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.".

(b) CONFORMING AMENDMENTS.—Section 620(e)(1) is amended—

(1) by striking out the first sentence; and

(2) by striking out "(as defined in section 101(28) of this title)".

SEC. 104. EXPANSION OF CONTRACT-CARE AUTHORITY.

(a) ADDITIONAL COVERED SERVICES.—Section 603(a) is amended—

(1) in clause (3), by inserting "or nursing home care under section 620 of this title" after "Veterans' Administration facility" the first place it appears; and

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

"(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.".

(b) STYLISTIC AMENDMENTS.—Section 603(a) is further amended—

(1) in the matter preceding clause (1), by striking out "furnish—" and inserting in lieu thereof "furnish any of the following:";

(2) in each of clauses (1) through (7), by capitalizing the first letter of the first word;

(3) at the end of each of clauses (1) through (5), by striking out the semicolon and inserting in lieu thereof a period; and

(4) at the end of clause (6), by striking out "; or" and inserting in lieu thereof a period.

SEC. 105. HEALTH CARE OUTSIDE THE UNITED STATES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

Section 624(b) is amended to read as follows:

"(b)(1) The Administrator may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Administrator determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.

"(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

"(A) if the veteran is in the Republic of the Philippines or in Canada; or

"(B) if the Administrator determines, as a matter of discretion and pursuant to regulations which the Administrator shall prescribe, that it is appropriate and feasible to furnish such care and services.".

SEC. 106. INTERNMENT PERIOD REQUIRED FOR ELIGIBILITY FOR DENTAL CARE FOR FORMER PRISONERS OF WAR.

Section 612(b)(1)(F) (as redesignated by section 101(g)(1)) is amended by striking out "six months" and inserting in lieu thereof "90 days".

SEC. 107. READJUSTMENT COUNSELING PROGRAM.

(a) REPEAL OF TRANSITION REQUIREMENT.—Subsection (g)(1) of section 612A is amended to read as follows:

"(g)(1)(A) The Administrator may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

"(B) A closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Administrator submits a revision to such plan in which the closure or relocation of that center is proposed.".

(b) CHANGE IN REPORT DEADLINE.—Paragraph (2)(A) of section 612A(g) is amended—

(1) by striking out "April 1, 1987" and inserting in lieu thereof "April 1, 1988"; and

(2) by striking out "(or" and all that follows through "available)".

(c) REQUIREMENT FOR A NATIONAL PLAN.—Section 612A(g) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

Reports.

"(3)(A) The Administrator, after considering the recommendations of the Chief Medical Director, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Administrator's proposals as to each such center for a period (to be determined by the Administrator) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Administrator proposes to relocate the center to a general Veterans' Administration facility, relocate the center to a new location away from a general Veterans' Administration facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Administrator to open additional centers.

"(B) The plan shall include the Administrator's evaluation as to how, in light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center covered by the plan would ensure the continued availability and

effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

"(C) The Administrator shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

"(i) The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

"(ii) The distance between the center and the general Veterans' Administration facility.

"(iii) The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

"(iv) The availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

"(v) The availability, cost, and suitability of the space at the general Veterans' Administration facility.

"(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Veterans' Administration facility.

"(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

"(viii) Such other factors as the Administrator determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

"(D) For the purposes of this paragraph, the term 'general Veterans' Administration facility' means a Veterans' Administration facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

"(4) After submitting the plan required by paragraph (3) of this subsection, the Administrator may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Administrator's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

"(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.".

(d) DEFINITIONS.—Section 612A is further amended by adding at the end the following new subsection:

"(i) For the purposes of this section:

"(1) The term 'center' means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Veterans' Administration for the provision of services under this section and which (A) is situated apart from Veterans' Administration general health-care facilities, or (B) was so situated but has been relocated to a Veterans' Administration general health-care facility.

"(2) The term 'Veterans' Administration general health-care facility' means a health-care facility which is operated by the Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.".

(e) CONFORMING AMENDMENTS.—(1) Subsection (g)(2)(B) of section 612A is amended—

(A) in clause (i), by striking out "a program" and all that follows through "health-care facilities" and inserting in lieu thereof "centers"; and

(B) in clause (ii), by striking out "paragraph (1) of".

(2) Subsection (h) of such section is amended—

(A) in paragraph (3)(B), by striking out " 'Centers' " and inserting in lieu thereof " 'Resource Centers' "; and

(B) in paragraphs (4)(A), (4)(B), and (5), by striking out "Center" and inserting in lieu thereof "Resource Center".

38 USC 612A note.

(f) PROHIBITION OF DELEGATION OF DUTIES.—The Chief Medical Director of the Veterans' Administration may not delegate the function of making recommendations under section 612A(g)(3)(A) of title 38, United States Code, as amended by subsection (c).

SEC. 108. BENEFICIARY TRAVEL PROGRAM.

(a) PROGRAM REVISIONS.—Section 111 is amended—

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

(2) by inserting after subsection (a) the following new subsections (b) and (c):

"(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

"(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

"(B) A veteran with a service-connected disability rated at 30 percent or more.

"(C) A veteran receiving pension under section 521 of this title.

"(D) A veteran (i) whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Veterans' Administration facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(F) A veteran whose travel to a Veterans' Administration facility is incident to a scheduled compensation and pension examination.

"(2) The Administrator may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Administrator shall prescribe.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, the Administrator shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Administrator before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Administrator to use that mode of travel would have been hazardous to the person's life or health.

"(B) In the case of travel by a person to or from the Veteran's Administration facility by special mode of travel, the Administrator may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Administrator determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

"(c)(1) Except as otherwise provided in this subsection, the Administrator, in making a payment under this section to or for a person described in subparagraph (A), (B), (C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3 for each one-way trip.

"(2) In the case of a person who is determined by the Administrator to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Administrator pursuant to paragraph (1) of this subsection from payments for trips made to or from such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed $18.

"(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Veterans' Administration facility is performed by a special mode of travel for which payment under this section is authorized under subsection (b)(3) of this section.

"(4) The Administrator may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this paragraph. Regulations.

"(5) Whenever the Administrator increases or decreases the rates of allowances or reimbursement to be paid under this section, the Administrator shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in paragraphs (1) and (2) of this subsection as such amounts

may have been increased or decreased pursuant to this paragraph before such date.".

(b) VOLUNTEER TRANSPORTATION.—(1) Such section is further amended by adding at the end the following new subsection:

"(h) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.".

Reports.

(2) Not later than six months after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the implementation of subsection (h) of section 111 of title 38, United States Code, as added by paragraph (1).

(c) CONFORMING AMENDMENTS.—Paragraph (4) of subsection (g) of such section (as redesignated by subsection (a)(1)) is amended—

(1) by inserting "or adjusting amounts" after "rates" the first place it appears; and

(2) by inserting "and amounts" after "rates" the third place it appears.

(d) STYLISTIC AMENDMENTS.—Subsection (d) of such section (as redesignated by subsection (a)(1)) is amended—

(1) in paragraph (1)—

(A) by striking out "the" and inserting in lieu thereof "The"; and

(B) by striking out "hereof;" and inserting in lieu thereof "of this section.";

(2) in paragraph (2)—

(A) by striking out "actual" and inserting in lieu thereof "Actual"; and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(3) in paragraph (3), by striking out "the expense" and inserting in lieu thereof "The expense".

(e) CLERICAL AMENDMENTS.—(1) The heading of section 111 is amended to read as follows:

"§ 111. Payments or allowances for beneficiary travel".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 is amended to read as follows:

"111. Payments or allowances for beneficiary travel.".

38 USC 111 note.

(f) TRANSITION PROVISION.—In determining for the purposes of subsection (b)(1) of section 111 of title 38, United States Code, as amended by subsection (a), whether during fiscal year 1988 the Administrator has exercised the authority under that section to make payments there shall be disregarded any exercise of authority under that section before the date of the enactment of this Act.

(g) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to travel performed after June 30, 1988.

PART B—PILOT PROGRAMS AND REPORTS

SEC. 111. ADULT DAY HEALTH-CARE PROGRAM.

(a) THREE-YEAR EXTENSION.—Section 620(f)(3) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(b) STUDY REQUIREMENT.—The Administrator shall conduct a study of— 38 USC 620 note.

(1) the medical efficacy and the cost-effectiveness of furnishing adult day health care under section 620(f) of title 38, United States Code, as an alternative to nursing home care; and

(2) the comparative advantages and disadvantages of providing such care through facilities that are not under the direct jurisdiction of the Administrator and through facilities that are under the direct jurisdiction of the Administrator.

(c) REPORTS.—(1) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(A) an interim report on the study under subsection (b) not later than February 1, 1988; and

(B) a final report on such study not later than February 1, 1991.

(2) Each such report shall include—

(A) the results of the study under subsection (b) through September 30 of the year preceding the deadline under paragraph (1) for submission of the report; and

(B) any other recommendation that the Administrator considers appropriate for legislative or administrative action with respect to the furnishing of adult day health care under section 620(f) of title 38, United States Code.

(d) REPEAL OF EXISTING STUDY AND REPORT REQUIREMENTS.—Subsections (b) and (c) of section 103 of Public Law 98-160 (38 U.S.C. 620 note) are repealed.

SEC. 112. REPORT ON USE OF CONTRACT-CARE AUTHORITIES.

(a) REVISED REPORT REQUIREMENT.—Section 603 is amended by adding at the end the following new subsection:

"(c) The Administrator shall include in the budget documents which the Administrator submits to Congress for any fiscal year a detailed report on the furnishing of contract care and services during the most recently completed fiscal year under this section, sections 612A, 620, 620A, 624, and 632 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988.".

(b) REPEAL OF PREVIOUS REQUIREMENT.—Section 201(b) of the Veterans' Health Care Amendments of 1979 (Public Law 96-22; 93 Stat. 54) is repealed. 38 USC 601 note.

SEC. 113. PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS. 38 USC 612 note.

(a) PROGRAM.—(1) In order to evaluate the desirability of using mobile health-care clinics to increase the access to Veterans' Administration health-care services of veterans who reside in isolated rural areas, the Administrator may conduct a pilot program under which eligible veterans residing in areas which are at least Rural areas.

100 miles from the nearest Veterans' Administration health-care facility are furnished health-care services at a location convenient to their residences by Veterans' Administration employees furnishing such services through the use of appropriately equipped mobile health-care clinics. The pilot program shall be conducted for a period of not less than 24 months.

(2) The pilot program authorized by paragraph (1) shall be carried out using at least two mobile health-care clinics in each of the following geographic areas of the United States: the Northeast, the Midwest, the South, and the West.

Appropriation authorization.

(b) FUNDING.—There is authorized to be appropriated $5,000,000 for each of fiscal years 1989 and 1990 in order to carry out this section. No funds may be used for the pilot program unless specifically appropriated for that purpose.

(c) EVALUATION.—In carrying out the pilot program, the Administrator shall evaluate the efficacy and cost-effectiveness of furnishing care to eligible veterans through the use of mobile health-care clinics.

(d) REPORTS.—Not later than 20 months after the first health-care service under the pilot program is furnished, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an interim report on the implementation, operation, and results of the first 17 months' experience under the pilot program. Not later than 27 months after the beginning of the pilot program, the Administrator shall submit to such committees a final such report. Each such report shall include the following:

(1) Information on the health-care services that were furnished under such pilot program and a detailed specification of the costs of furnishing such services.

(2) Information describing the veterans who were furnished services under the pilot program, including a detailed description with respect to service connection, age, prior access to and use of Veterans' Administration care and services, and the financial need of such veterans.

(3) The preliminary or final results of the Administrator's evaluation.

(4) Any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in the report.

38 USC 612 note.

SEC. 114. MODIFICATION OF REPORT ON CARE FURNISHED TO VETERANS HAVING CHRONIC MENTAL ILLNESS DISABILITIES.

(a) REPORT ON INSTITUTIONAL CARE FURNISHED MENTALLY ILL VETERANS.—The report required by section 235 of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3266) shall, to the extent feasible, include (1) information on the number of veterans being treated by the Veterans' Administration for mental illness disabilities who were furnished hospital, domiciliary, or nursing home care by the Administrator during each of fiscal years 1986, 1987, and 1988, shown by type of care furnished and the duration of such care, and (2) the Administrator's analysis of any change in the numbers of veterans being furnished any type of such care during such fiscal years, with particular emphasis on the effect of the implementation by the Veterans' Administration of a resource allocation methodology.

(b) DEADLINE FOR SUBMISSION OF REPORT.—Notwithstanding the date specified in subsection (c) of such section, the report required by such section shall be submitted not later than December 15, 1988.

SEC. 115. PILOT PROGRAM OF COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL AND OTHER VETERANS. 38 USC 612 note.

(a) AUTHORITY FOR PROGRAM.—(1) The Administrator shall conduct a pilot program to provide care and treatment and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless veterans suffering from chronic mental illness disabilities who are eligible for care under section 610(a)(1) of title 38, United States Code.

(2) As part of the pilot program, the Administrator may also provide such care and treatment and rehabilitative services—

(A) to veterans being furnished hospital or nursing home care by the Administrator for a chronic mental illness disability; and

(B) to veterans with service-connected chronic mental illness disabilities.

(b) CRITERIA FOR FACILITIES.—Before furnishing care and treatment and rehabilitative services by contract under subsection (a) to a veteran through a facility described in subsection (a), the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

(c) IN-KIND ASSISTANCE.—The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility described in subsection (a) under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate care and services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance. Contracts.

(d) DURATION OF PROGRAM.—The authority for the pilot program authorized by this section expires on September 30, 1989. Termination date.

(e) REPORT.—Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience of the Veterans' Administration under the pilot program through September 30, 1988, and the recommendation of the Administrator (together with the reasons for such recommendation) as to whether the pilot program should be continued.

(f) FUNDING.—(1) There is authorized to be appropriated for the pilot program under this section $6,000,000 for each of fiscal years 1988 and 1989. Appropriation authorization.

(2) Of the amounts appropriated for the pilot program for each such fiscal year, not less than $250,000 shall be expended for

management and monitoring of the program to ensure that a high quality of care is provided under the program and to ensure an accurate accounting of funds for the program.

(3) During fiscal year 1989, funds may not be obligated for the pilot program under this section other than funds specifically appropriated for that program.

(g) REPEAL OF CONTRACT AUTHORITY IN TITLE 38.—(1) Section 620C is repealed.

(2) The table of sections at the beginning of chapter 17 is amended by striking out the item relating to that section.

38 USC 214 note.

SEC. 116. REPORTS ON ASSISTANCE TO HOMELESS VETERANS.

Not later than December 15 of each of 1988, 1989, and 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities (including outreach activities and delivery of medical benefits and other benefits) of the Veterans' Administration during the preceding fiscal year to assist homeless veterans. The report shall include any suggestions of the Administrator for changes in those activities.

PART C—MATTERS RELATING TO AIDS

SEC. 121. CONFIDENTIALITY OF MEDICAL RECORDS.

(a) GENERAL RULE.—Subsection (a) of section 4132 is amended—

(1) by inserting "(1)" before "Records";

(2) by inserting "infection with the human immunodeficiency virus," after "alcohol abuse,"; and

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

"(2) Paragraph (1) of this subsection prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.".

(b) PUBLIC HEALTH EXCEPTION.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking out "pursuant to section 4134 of this title"; and

(2) in paragraph (2)—

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

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

State and local governments.

"(C)(i) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority, charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

"(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.".

(c) DISCLOSURE TO SPOUSE OR SEXUAL PARTNER.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) Notwithstanding subsection (a) of this section but subject to paragraph (2) of this subsection, a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

Health care professionals.

"(2)(A) A disclosure under paragraph (1) of this subsection may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

"(B) A disclosure under such paragraph may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) of this paragraph if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

(d) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Subsection (g) of such section (as redesignated by paragraph (4)(A)) is amended by striking out "shall be fined" and all that follows and inserting in lieu thereof "shall be fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section.".

(e) CROSS-REFERENCE AMENDMENTS.—(1) Subsection (a) of such section is amended by striking out "subsection (e)" and inserting in lieu thereof "subsections (e) and (f)".

(2) Subsection (c) of such section is amended by striking out "subsection (b)(2)(C)" and inserting in lieu thereof "subsection (b)(2)(D)".

SEC. 122. NONDISCRIMINATION.

(a) ADMISSION AND TREATMENT OF PERSONS INFECTED WITH THE HUMAN IMMUNODEFICIENCY VIRUS.—Sections 4133 and 4134 are amended to read as follows:

"§ 4133. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

"(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

"(b) The Administrator shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 4134 of this title.

Regulations.

"§ 4134. Regulations

Research and development.

"(a) Regulations prescribed by the Administrator under section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) of this section to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

"(b) The regulations referred to in subsection (a) of this section are—

"(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

"(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

"(c) Regulations prescribed by the Administrator under sections 4131, 4132, and 4133 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

"(d) In prescribing and implementing such regulations, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Administrator prescribe.".

(b) CLERICAL AMENDMENT.—The items relating to sections 4133 and 4134 in the table of sections at the beginning of chapter 73 of such title are amended to read as follows:

"4133. Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus.

"4134. Regulations.".

38 USC 210 note.

SEC. 123. INFORMATION AND TRAINING CONCERNING AIDS PREVENTION.

(a) INFORMATION PROGRAM.—The Administrator shall establish and carry out an information program relating to the acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS"). The information program shall be for employees and consultants of the Veterans' Administration, for other persons providing services in Veterans' Administration facilities to beneficiaries of programs administered by the Veterans' Administration, and for such beneficiaries.

(b) REQUIRED ELEMENTS OF INFORMATION PROGRAM.—In conducting the program under subsection (a), the Administrator shall—

(1) develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

(2) provide for periodic dissemination of publications (including the Surgeon General's Report on AIDS) and other materials containing such information;

(3) make publications and other suitable materials containing such information readily available in Veterans' Administration health-care facilities and such other Veterans' Administration facilities as the Administrator considers appropriate; and

(4) disseminate information (including the Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus, and information on preventing the transmission of such virus, to Veterans' Administration substance abuse treatment personnel, to each person being furnished treatment by the Veterans' Administration for drug abuse, and to each person receiving care or services from the Veterans' Administration whom the Administrator believes to be at high risk for AIDS.

(c) TRAINING IN AIDS PREVENTION.—The Administrator shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of all health-care personnel and all health-care support personnel involved in the furnishing of care under programs administered by the Veterans' Administration. Education.

SEC. 124. RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS. 38 USC 4133 note.

(a) GENERAL RULE.—Except as provided in subsection (b), the Administrator may not during any fiscal year conduct a widespread testing program to determine infection of humans with the human immunodeficiency virus unless funds have been appropriated to the Veterans' Administration specifically for such a program during that fiscal year.

(b) VOLUNTARY TESTING.—(1) The Administrator shall provide for a program under which the Veterans' Administration offers each patient to whom the Veterans' Administration is furnishing health care or services and who is described in paragraph (2) the opportunity to be tested to determine whether such patient is infected with the human immunodeficiency virus.

(2) Patients referred to in paragraph (1) are—

(A) patients who are receiving treatment for intravenous drug abuse, Drugs and drug abuse.

(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and Diseases.

(C) patients who are otherwise at high risk for infection with such virus.

(3) Subject to the consent requirement in paragraph (4) and unless medically contraindicated, the test shall be administered to each patient requesting to be tested for infection with such virus.

(4) A test may not be conducted under this subsection without the prior informed and separate written consent of the patient tested. The Administrator shall provide pre- and post-test counseling regarding the acquired immune deficiency syndrome and the test to each patient who is administered the test.

PART D—OTHER MATTERS

SEC. 131. DEFINITION OF VETERANS' ADMINISTRATION MEDICAL FACILITIES TO INCLUDE CERTAIN RECREATIONAL FACILITIES.

Section 601(4) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) public or private facilities at which the Administrator provides recreational activities for patients receiving care under section 610 of this title.".

SEC. 132. VETERANS' ADMINISTRATION ASSISTANCE WITH REHABILITATION ACTIVITIES.

(a) IN GENERAL.—Chapter 3 is amended by inserting after section 215 the following new section:

38 USC 216.

"§ 216. Assistance to certain rehabilitation activities

"(a) The Administrator may assist any organization named in or approved under section 3402 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

"(1) the activities are available to disabled veterans on a national basis; and

"(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

"(b) The Administrator may accept from any appropriate source contributions of funds and of other assistance to support the Administrator's provision of assistance for such activities.

"(c)(1) Subject to paragraph (2) of this subsection, the Administrator may authorize the use, for purposes approved by the Administrator in connection with the activity involved, of the seal and other official symbols of the Veterans' Administration and the name 'Veterans' Administration' by—

"(A) any organization which provides an activity described in subsection (a) of this section with assistance from the Administrator; and

"(B) any individual or entity from which the Administrator accepts a significant contribution under subsection (b) of this section or an offer of such a contribution.

"(2) The use of such seal or name or any official symbol of the Veterans' Administration in an advertisement may be authorized by the Administrator under this subsection only if—

"(A) the Administrator has approved the advertisement; and

"(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Veterans' Administration.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 215 the following new item:

"216. Assistance to certain rehabilitation activities.".

SEC. 133. RULES AND REGULATIONS RELATING TO VETERANS' HEALTH CARE.

The text of section 621 is amended to read as follows:

"Rules and regulations prescribed under section 210(c)(1) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Veterans' Administration facilities. The Administrator may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).".

SEC. 134. PER DIEM RATES FOR CARE IN STATE HOMES.

(a) INCREASES IN RATES.—Section 641 is amended—

(1) in subsection (a), by striking out clauses (1) through (3) and inserting in lieu thereof the following:

"(1) $8.70 for domiciliary care; and

"(2) $20.35 for nursing home care and hospital care,"; and

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

"(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.".

(b) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall take effect as of January 1, 1988. 38 USC 641 note.

(2) The amendment made by subsection (a)(2) shall take effect on October 1, 1988.

SEC. 135. MEDICAL RESEARCH.

Section 4101(c)(1) is amended by striking out the parenthetical phrase and inserting in lieu thereof "(including biomedical, mental illness, prosthetic and other rehabilitative, and health-care-services research and stressing research into spinal-cord injuries and other diseases that lead to paralysis of the lower extremities and research into injuries and illnesses particularly related to service)".

SEC. 136. CONVERSION OF UNDERUSED SPACE TO DOMICILIARY-CARE BEDS. 38 USC 5010 note.

(a) IN GENERAL.—(1) Subject to subsection (b), the Administrator shall, not later than June 1, 1988, in urban areas in which there are significant numbers of homeless veterans, convert underused space located in facilities under the jurisdiction of the Administrator to 500 domiciliary-care beds to be used for the care of veterans in need of domiciliary care, primarily homeless veterans. Urban areas. Homeless persons.

(2) If the Administrator determines that it is impractical to undertake the conversions required in paragraph (1) to the extent required in that paragraph—

(A) because appropriate space for the conversions is not available in sufficient quantity, or

(B) because in areas in which there is sufficient space the numbers of homeless veterans in need of domiciliary care who would likely use the beds are not sufficient to warrant the conversions,

the Administrator shall carry out paragraph (1) only to the extent that the Administrator has not determined that it is impractical to do so.

(b) PROHIBITION AGAINST DIMINUTION OF CERTAIN OTHER CONVERSIONS.—Nothing in this section shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans' Administration.

(c) FUNDING.—The Administrator shall carry out subsection (a) within the limits of available appropriations.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

38 USC 4151 note.

SEC. 201. HEALTH CARE QUALITY ASSURANCE ACTIVITIES.

(a) ACTIONS TO IMPROVE QUALITY ASSURANCE ACTIVITIES.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall take actions to improve the operation of health-care quality assurance programs and activities in the Veterans' Administration, including actions to achieve the following purposes:

(1) Upgrading the Office of Quality Assurance within the Department of Medicine and Surgery Central Office and assigning responsibility for risk-management activities (to be carried out with the concurrence of the General Counsel) to it.

(2) Expanding, and assigning higher priority and greater resources to, quality-assurance programs and activities at each Veterans' Administration health-care facility, including implementation of the review (known as "occurrence screening") of patient records for adverse events which are not the natural consequence of the patient's disease, injury, or treatment and the maximum use of the facility's computerized management information system for such activities.

(3) Upgrading and expanding the office of the Medical Inspector in the Department of Medicine and Surgery Central Office, including increasing the number of employees assigned to such office on a full-time basis, so as to ensure that each medical inspection carried out by that office includes at least one such full-time employee and otherwise ensuring such adequate numbers of, and such skills and training on the part of, the employees assigned to that office as are necessary to ensure the independence, objectivity, and accountability of that office.

(4) Upgrading and expanding the activities of the Veterans' Administration's Office of Inspector General in overseeing, monitoring, and evaluating the operations of the Department of Medicine and Surgery's quality-assurance programs and activities and its Medical Inspector office so as to provide the Chief Medical Director, the Administrator, and the Congress with clear and objective assessments of the effectiveness of those

programs and operations, including ensuring such numbers of, and such skills and training on the part of, employees assigned to the Office of the Inspector General as are necessary to carry out such oversight, monitoring, and evaluation effectively.

(b) REPORT.—Not later than 75 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, a report describing the actions taken pursuant to subsection (a), including reports of the Chief Medical Director and the Inspector General of the Veterans' Administration on such actions, and any future actions planned (and a timetable therefor) in connection with such actions. The report shall include—

(1) the Administrator's views on (A) the effectiveness of quality assurance and risk management and medical inspection programs and activities in the Department of Medicine and Surgery and of the oversight, monitoring, and evaluation of those programs and activities before the implementation of the actions described in the preceding sentence, and (B) how those actions will improve the effectiveness of these programs and activities; and

(2) a description of actions that have been or will be taken (and the justification for those actions) by the Administrator, the Inspector General, and the Chief Medical Director, as appropriate, to make other improvements in such programs and activities and the oversight, monitoring, and evaluation therefor.

SEC. 202. HOSPITAL COST COLLECTIONS.

Section 629(b)(2) is amended by adding at the end the following new subparagraph:

"(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the last day on which the care or services for which recovery is sought are furnished.".

SEC. 203. TORT CLAIMS.

(a) INAPPLICABILITY OF AN EXCEPTION RELATING TO FEDERAL TORT CLAIMS IN MEDICAL MALPRACTICE AND NEGLIGENCE CASES.—(1) Section 4116 is amended by adding at the end the following new subsection:

"(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.".

(2) The amendment made by paragraph (1) shall apply with respect to claims as to which a final judgment has not been rendered as of the date of the enactment of this Act. 38 USC 4116 note.

(b) INCREASED AUTHORITY TO ADJUST TORT CLAIMS ADMINISTRATIVELY.—(1) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 223. Administrative settlement of tort claims 38 USC 223.

"(a) Notwithstanding the limitations contained in section 2672 of title 28, the Administrator may settle any claim for money damages

against the United States cognizable under section 1346(b) or 2672 of title 28 or section 4116 of this title to the extent the authority to do so is delegated to the Administrator by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

"(b) For purposes of this subsection, the term 'settle', with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.".

(2) The table of sections at the beginning of chapter 3 is amended by inserting after the item relating to section 222 the following:

"223. Administrative settlement of tort claims.".

SEC. 204. NONPROFIT RESEARCH CORPORATIONS.

(a) AUTHORITY OF ADMINISTRATOR.—Chapter 73 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

38 USC 4161.

"§ 4161. Authority to establish; status

"(a) The Administrator may authorize the establishment at any Veterans' Administration medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

"(b) If by the end of the three-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall dissolve the corporation.

38 USC 4162.

"§ 4162. Purpose of corporations

"Any corporation established under this subchapter shall be established solely to facilitate research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be transferred to and administered by the corporation for that purpose.

38 USC 4163.

"§ 4163. Board of directors; executive director

"(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

"(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

"(2) subject to subsection (c) of this section, members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research.

"(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

"(c) An individual appointed under subsection (a)(2) of this section to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

"§ 4164. General powers 38 USC 4164.

"(a) A corporation established under this subchapter may—

"(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and Gifts. Grants. Contracts.

"(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

"(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds. Such procedures shall include a peer review process.

"§ 4165. Applicable State law 38 USC 4165.

"Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

"§ 4166. Accountability and oversight 38 USC 4166.

"(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Administrator. Records.

"(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Veterans' Administration with respect to which the Inspector General of the Veterans' Administration has responsibilities under such Act.

"(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

"(b) Each such corporation shall submit to the Administrator an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Administrator for that year. Reports.

"(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corpora-

tion, and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year—

"(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

"(2) shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

"(d) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

38 USC 4167.

"§ 4167. Report to Congress

"Not later than February 1, 1991, the Administrator shall submit to Congress a report on the experience through the end of fiscal year 1990 under this subchapter. The report shall include such recommendations as the Administrator considers appropriate.

38 USC 4168.

"§ 4168. Expiration of authority

"No corporation may be established under this subchapter after September 30, 1991.".

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

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"4161. Authority to establish; status.
"4162. Purpose of corporations.
"4163. Board of directors; executive director.
"4164. General powers.
"4165. Applicable State law.
"4166. Accountability and oversight.
"4167. Report to Congress.
"4168. Expiration of authority.".

SEC. 205. NURSING HOME REVOLVING FUND.

(a) ESTABLISHMENT OF FUND.—Chapter 81 is amended by inserting after section 5015 the following new section:

38 USC 5016.

"§ 5016. Nursing home revolving fund

"(a)(1) Amounts realized from a transfer pursuant to section 5022(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

"(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

"(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of nursing home facilities and may be made only as provided for in appropriation Acts.

"(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.".

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

"5016. Nursing home revolving fund.".

SEC. 206. STATE HOME CONSTRUCTION GRANTS.

(a) DATE OF LIST OF APPROVED PROJECTS.—Section 5035(b)(4) is amended by striking out "July 1" and inserting in lieu thereof "August 15".

(b) CONDITIONAL APPROVAL OF APPLICATIONS.—Section 5035(b) is amended—

(1) in paragraph (4), by inserting "(including projects that have been conditionally approved under paragraph (6) of this subsection)" after "projects"; and

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

"(6)(A) The Administrator may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Administrator determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than 90 days after the date of the conditional approval, specified by the Administrator.

"(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Administrator under subparagraph (A) of this paragraph, the Administrator shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application.

"(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

"(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.".

PART B—PAY AND OTHER PERSONNEL BENEFITS

SEC. 211. ADDITIONAL PAY AUTHORITIES FOR NURSES TO BE AVAILABLE FOR PHARMACISTS AND OCCUPATIONAL THERAPISTS.

(a) CATEGORY OF APPOINTMENT.—Section 4104 is amended—

(1) in paragraph (2), by striking out "Pharmacists" and all that follows through "therapists" and inserting in lieu thereof "Psychologists (other than those described in paragraph (3) of this section)"; and

(2) in paragraph (3)—

(A) by striking out "and"; and

(B) by inserting ", pharmacists, and occupational therapists" after "nurses".

(b) AUTHORITY FOR PREMIUM PAY.—The second sentence of section 4107(f) is amended—

(1) by striking out "or licensed" and inserting in lieu thereof "licensed"; and

(2) inserting "pharmacists, or occupational therapists," after "nurses,".

SEC. 212. RECRUITMENT AND RETENTION BONUS PAY.

(a) AUTHORITY TO PAY BONUS.—Chapter 73 is amended by inserting after section 4119 the following new section:

38 USC 4120.

"§ 4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel

Contracts.

"(a)(1) In order to recruit and retain registered nurses, the Administrator may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration health-care facility that is designated by the Administrator as a health-care facility with a significant shortage in registered nurses in any clinical service.

"(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility that is designated by the Administrator as a health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

"(b)(1) The Administrator shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—

"(A) $2,000 per year, in the case of an agreement for two years,

"(B) $3,000 per year, in the case of an agreement for three years, and

"(C) $4,000 per year, in the case of an agreement for four years.

"(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated accordingly.

"(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

"(B) If the Administrator makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the

bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

"(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purposes of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(e) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Administrator shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

"(f) The Administrator may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be provided under section 4118 of this title) if the Administrator determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Administrator's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an agreement under this section with a registered nurse and such an agreement. Contracts.

"(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

"(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Administrator determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including separation for cause) beyond the control of the individual.

"(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

"(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

"(h) The Administrator shall prescribe regulations to carry out this section.". Regulations.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4119 the following:

"4210. Recruitment and retention bonus pay for nurses and certain other health-care personnel.".

(b) CONFORMING AMENDMENT.—Section 4107(d) is amended by striking out "section 4118" and inserting in lieu thereof "sections 4118 and 4120".

SEC. 213. ON-CALL PAY.

Section 4107 is amended by adding at the end the following new subsection:

"(j)(1) The Administrator may pay an employee to whom this subsection applies pay at the rate provided in subsection (e)(8) of this section except for such time as the employee may be called back to work.

"(2) This subsection applies to an employee who meets each of the following criteria:

"(A) The employee is employed in a position listed in paragraph (3) of section 4104 of this title or meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section.

"(B) The employee is employed in a work unit for which on-call premium pay is authorized.

"(C) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

"(3) An employee who is eligible for on-call pay under paragraph (1) of this subsection and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on-call duty at the rate equal to the greater of (A) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the rate of pay which such employee is entitled to receive including on-call premium pay described in paragraph (1) of this subsection.".

SEC. 214. PREMIUM PAY FOR SATURDAY WORK.

(a) EXTENSION OF SUNDAY WORK PREMIUM PAY.—Paragraph (3) of section 4107(e) is amended by striking out "Saturday" and inserting in lieu thereof "Friday".

(b) CONFORMING AMENDMENTS.—(1) Subparagraph (A) of paragraph (10) of such section is amended to read as follows:

"(A) Notwithstanding any other provision of law and subject to subparagraph (B) of this paragraph, the Administrator may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection if the Administrator determines that it is necessary to do so in order to obtain or retain the services of nurses.".

(2) Such paragraph is further amended—

(A) in subparagraph (B), by striking out "subparagraph (A)(i)" and inserting in lieu thereof "subparagraph (A)"; and

(B) by striking out subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tours of duty performed by nurses which begin on or after the first day of the first pay period beginning on or after the date of the enactment of this Act.

38 USC 4107 note.

SEC. 215. REPORT ON EFFECT OF CERTAIN PAY AND BENEFITS AMENDMENTS.

38 USC 4104 note.

Health care professionals.

Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by sections 211 through 214, relating to pay and benefits for various health care professionals in the Department of Medicine and Surgery. The report—

(1) shall particularly describe the effect of such amendments and other provisions of law on the ability of the Veterans' Administration to meet its requirements for nurses, pharmacists, occupational therapists, and physical therapists; and

(2) shall include such recommendations for further legislative action as the Administrator considers appropriate.

SEC. 216. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM.

(a) REPEAL OF OLD PROGRAM.—Subchapter IV of chapter 73 is repealed.

(b) IMPROVED AND EXPANDED PROGRAM.—Part V is amended by adding at the end the following new chapter:

"CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—GENERAL

"Sec.
"4301. Establishment of program; purpose.
"4302. Eligibility.
"4303. Application and acceptance.
"4304. Terms of agreement.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

"4311. Authority for program.
"4312. Eligibility; application; agreement.
"4313. Scholarship.
"4314. Part-time students.
"4315. Status of participants.
"4316. Obligated service.
"4317. Breach of agreement: liability.
"4318. Expiration of program.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"4321. Authority for program.
"4322. Eligibility; application; agreement.
"4323. Obligated service.
"4324. Breach of agreement: liability.
"4325. Allocation and distribution of funding.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"4331. Periodic adjustments in amount of assistance.
"4332. Annual report.
"4333. Regulations.
"4334. Breach of agreement; waiver of liability.
"4335. Service in other agencies.
"4336. Exemption of educational assistance payments from taxation.

"SUBCHAPTER I—GENERAL

38 USC 4301.

"§ 4301. Establishment of program; purpose

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the 'Educational Assistance Program'). The program consists of—

"(1) the scholarship program provided for in subchapter II of this chapter, and

"(2) the tuition reimbursement program provided for in subchapter III of this chapter.

"(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Veterans' Administration and the Nation.

38 USC 4302.

"§ 4302. Eligibility

"(a)(1) To be eligible to participate in the Educational Assistance Program, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Administrator and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter or for which tuition reimbursement may be provided under subchapter III of this chapter.

"(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Administrator) is an accredited institution.

"(b) An individual is not eligible to apply to participate in the Educational Assistance Program if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

38 USC 4303.

"§ 4303. Application and acceptance

Contracts.

"(a) To apply to participate in the Educational Assistance Program, an individual shall submit to the Administrator an application for such participation together with an agreement described in section 4304 of this title under which the participant agrees to serve a period of obligated service in the Department of Medicine and Surgery as provided in the agreement in return for payment of educational assistance as provided in the agreement.

"(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Administrator's approval of the individual's application and the Administrator's acceptance of the agreement.

"(2) Upon the Administrator's approval of an individual's participation in the program, the Administrator shall promptly notify the individual of that approval. Such notice shall be in writing.

"(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms the following:

"(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted) by the Administrator, including a clear explanation of

the damages to which the United States is entitled if the individual breaches the agreement.

"(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(d) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator shall give priority to the applications of individuals who have previously received educational assistance under the program and have not completed the course of education or training undertaken under such program.

"§ 4304. Terms of agreement 38 USC 4304.

"An agreement between the Administrator and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

"(1) The Administrator's agreement—

"(A) to provide the participant with educational assistance as authorized in subchapter II or III of this chapter and specified in the agreement; and

"(B) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title).

"(2) The participant's agreement—

"(A) to accept such educational assistance;

"(B) to maintain enrollment and attendance in the course of training until completed;

"(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator); and

"(D) after completion of the course of training, to serve as a full-time employee in the Department of Medicine and Surgery as specified in the agreement in accordance with subchapter II or III of this chapter.

"(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

"(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

"(5) Such other terms as are required to be included in the agreement under subchapter II or III of this chapter or as the Administrator may require consistent with the provisions of this chapter.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

38 USC 4311.

"§ 4311. Authority for program

"As part of the Educational Assistance Program, the Administrator shall carry out a scholarship program under this subchapter. The program shall be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program").

38 USC 4312.

"§ 4312. Eligibility; application; agreement

"(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as described in section 4302 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

"(2) An individual who is an eligible Veterans' Administration employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 4302 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

"(3) For the purposes of paragraph (2) of this subsection, an eligible Veterans' Administration employee is a full-time Veterans' Administration employee who is permanently assigned to a Veterans' Administration health-care facility on the date on which the individual submits the application referred to in section 4303 of this title and on the date on which the individual becomes a participant in the Scholarship Program.

"(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

"(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 4104 of this title) as any of the following:

"(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

"(B) A psychologist described in section 4104(3) of this title or a certified or registered respiratory therapist, licensed physical therapist, or licensed practical or vocational nurse.

"(3) The Administrator may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under section 4107(g)(1)(B) of this title.

"(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Administrator shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Veterans' Administration with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

"(5) In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training.

"(c)(1) An agreement between the Administrator and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 4304 of this title) include the following:

"(A) The Administrator's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 4302 of this title.

"(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program.

"(2) In a case in which an extension is granted under section 4314(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

"(3) In the case of a participant who is a part-time student—

"(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

"(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

"(4) If a participant's period of obligated service is deferred under section 4316(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Administrator under section 4316(b)(4)(B) of this title.

"§ 4313. Scholarship

38 USC 4313.

"(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

"(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 4331 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 4314(1) and 4314(2) of this title.

"(c) The Administrator may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (a) of this section. Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

38 USC 4314.

"§ 4314. Part-time students

"In the case of a participant who is a part-time student—

"(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant;

"(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

"(3) the Administrator may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Administrator determines that the extension would be in the best interest of the United States.

38 USC 4315.

"§ 4315. Status of participants

"Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

38 USC 4316.

"§ 4316. Obligated service

"(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of the participant entered into under section 4303 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Administrator.

"(b)(1) Not later than 60 days before the participant's service commencement date, the Administrator shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

"(2) As soon as possible after the participant's service commencement date, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is an employee in the Department of Medicine and Surgery but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

"(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral

could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

"(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

"(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility. Such a participant may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(A) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(5) The Administrator shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection. Regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

38 USC 4317.

"§ 4317. Breach of agreement: liability

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 4303 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

"(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

"(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Administrator).

"(2) The participant is dismissed from such educational institution for disciplinary reasons.

"(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

"(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator.

"(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

"(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A = 3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'Φ' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4316(b)(4) of this title.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4313 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§ 4318. Expiration of program 38 USC 4318.

"The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"§ 4321. Authority for program 38 USC 4321.

"As part of the Educational Assistance Program, the Administrator shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Veterans' Administration Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program").

"§ 4322. Eligibility; application; agreement 38 USC 4322.

"(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Veterans' Administration permanently assigned to a Veterans' Administration health-care facility and must be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

"(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Administrator (in addition to according priorities as set forth in section 4303(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Veterans' Administration. The Administrator shall then give priority, in the following order, to—

"(1) individuals who have been employed as full-time employees in the Nursing Service in the Department of Medicine and Surgery; and

"(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

"(c) An agreement between the Administrator and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 4304 of this title) contain the following:

"(1) The Administrator's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites.

"(2) The participant's agreement—

"(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee in the Department of Medicine and Surgery permanently assigned to a Veterans' Administration health-care facility; and

"(B) to continue to serve as a full-time employee in such Department for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

"(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program may not exceed $2,000 per year adjusted in accordance with section 4331 of this title).

"(e) The Administrator may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

38 USC 4322.

"§ 4323. Obligated service

"(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of such participant entered into under section 4303 of this title.

"(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

"(c) Except in the case of a participant whose tuition was paid pursuant to section 4322(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

"(d) In the case of a participant whose tuition was paid pursuant to section 4322(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the

course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

"(e) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

"§ 4324. Breach of agreement: liability 38 USC 4324.

"(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

"(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

"(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement.

"(b)(1) If a participant in the Tuition Reimbursement Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A = 3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'Φ' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4323 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§ 4325. Allocation and distribution of funding 38 USC 4325.

"In determining the amount of funding to allocate to Veterans' Administration health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for that fiscal year for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Administrator.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

38 USC 4331.

"§ 4331. Periodic adjustments in amount of assistance

"(a)(1) Whenever there is a general Federal pay increase, the Administrator shall increase the maximum monthly stipend amount and the maximum tuition reimbursement amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

"(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rates of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

"(b) For purposes of this section:

"(1) The term 'maximum monthly stipend amount' means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 4313(b) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(2) The term 'maximum tuition reimbursement amount' means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program specified in section 4322(e) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(3) The term 'general Federal pay increase' means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 51 of title 5.

38 USC 4332.

"§ 4332. Annual report

Not later than March 1 of each year, the Administrator shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

"(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program.

"(2) The education institutions providing such training to students in each program.

"(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

"(4) The average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program.

"(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year

and the number, by health profession category, which were offered and not accepted.

"(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

"§ 4333. Regulations 38 USC 4333.

"The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

"§ 4334. Breach of agreement; waiver of liability 38 USC 4334.

"(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

"(b) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or an agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance is in the best interest of the United States. Regulations.

"(c) An obligation of a participant under the Educational Assistance Program (or an agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

"§ 4335. Service in other agencies 38 USC 4335.

"(a) The Administrator, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

"(1) a period of obligated service required under this chapter to be performed in the Department of Medicine and Surgery to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Department of Medicine and Surgery; and

"(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

"(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

"§ 4336. Exemption of educational assistance payments from taxation 38 USC 4336.

"Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.".

(c) SAVINGS PROVISION.—The provisions of subchapter IV of chapter 73 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall remain in effect with respect to scholarships awarded under that subchapter. 38 USC 4141 note.

38 USC 4331 note.

(d) TRANSITION.—Section 4331 of title 38, United States Code, as added by subsection (b), shall not apply with respect to a school year ending during fiscal year 1988.

(e) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 73 is amended by striking out the items relating to subchapter IV and sections 4141 through 4146.

(2) The tables of chapters before part I and at the beginning of part V are each amended by inserting after the item relating to chapter 75 the following new item:

"76. Health Professionals Educational Assistance Program ..... 4301".

SEC. 217. PAY SCALES AND AWARDS FOR DEPARTMENT OF MEDICINE AND SURGERY EMPLOYEES.

(a) SECTION 4103 SCHEDULE.—Subsection (a) of section 4107 is amended to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.".

(b) SECTION 4104(1) POSITIONS.—Subsection (b)(1) of section 4107 is amended to read as follows:

"(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade.
"Executive grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.

"NURSE SCHEDULE

"Director grade.
"Assistant Director grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.
"Junior grade.

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.".

(c) AWARDS FOR CAREER APPOINTEES.—Subsection (c)(3) of such section is amended by inserting "and any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title" after "applies".

PART C—PERSONNEL ADMINISTRATION

SEC. 221. DISCIPLINARY MATTERS AS TO CERTAIN APPOINTEES.

Section 4106(g) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under such title.".

SEC. 222. PERSONNEL CEILINGS FOR NONCAREER RESEARCH PERSONNEL.

(a) EXCLUSION FROM PERSONNEL CEILINGS.—Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Temporary research personnel of the Department of Medicine and Surgery shall be excluded from any ceiling on full-time equivalent employees of the Veterans' Administration or any other personnel ceiling otherwise applicable to employees of the Veterans' Administration.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'temporary research personnel' means personnel who are employed in the Department of Medicine and Surgery in other than a career appointment for work on a research activity and who are not paid by the Veterans' Administration or are paid from funds appropriated to the Veterans' Administration to support such activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years after fiscal year 1987.

38 USC 5010 note.

SEC. 223. AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Subsection (d) of section 4114 is amended to read as follows:

"(d)(1) Subject to paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

"(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

"(B) that the licensure or certification of such an individual be in a State; and

"(C) that a psychologist have completed an internship.

"(2) The waivers authorized in paragraph (1) of this subsection may be granted—

"(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

"(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.".

SEC. 224. NURSE REPRESENTATION ON POLICYMAKING COMMITTEES.

(a) INCLUSION OF FACILITY CHIEF OF NURSING.—Section 4112 is amended by adding at the end the following new subsection:

"(c) The Administrator shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Veterans' Administration health-care facility be included in the membership of each policymaking committee at that facility. Such committees include (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (b) of this section.".

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended in the first sentence by striking out "deans committee" and inserting in lieu thereof "dean's committee".

PART D—REPORTS

38 USC 4104 note.

SEC. 231. STUDY OF PAY AND OTHER PERSONNEL MANAGEMENT PRACTICES.

(a) IN GENERAL.—The Administrator shall conduct a study in order to determine—

(1) the effects of the pay and other personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incident to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen, and

(2) the effects that flexible employment benefits programs would have on the recruitment and retention of such employees.

(b) MATTERS REQUIRED TO BE DETERMINED.—In conducting the study under subsection (a), the Administrator shall make determinations with respect to various factors which may affect the determinations to be made under subsection (a), including determinations of the following:

(1) Whether there is inappropriate pay compression between the rates of pay of long-time employees of the Veterans' Administration and either the rates of pay of their supervisors or the rates of pay of relatively new employees performing the same services as a result of the position classification and pay systems applicable to such long-time and relatively new employees or to their supervisors.

(2) If any such inappropriate pay compression exists and such compression results from such position classification and pay systems, whether it is feasible to revise such system or systems in order to eliminate such pay compression and how much would be the cost to revise such system or systems for that purpose and to implement the revisions.

(3) Whether the payment of pay differentials (or of increased pay differentials) for evening or night service is needed in order to improve the ability of the Veterans' Administration to recruit and retain personnel to perform services referred to in subsection (a) on evening or night shifts, in what amounts such differentials should be paid, how much would be the cost of the payment of such differentials, and what, if any, effects the

payment of such differentials would be expected to have on the ability of the Veterans' Administration to recruit and retain personnel to perform such services on a shift for which a differential is not paid.

(c) CONSIDERATION OF FLEXIBLE EMPLOYEE BENEFITS PROGRAMS.—In conducting the study under subsection (a), the Administrator shall review the personnel management practices of an appropriate sample of employers other than the Federal Government. The Administrator shall consider—

(1) the extent to which such employers provide flexible employment benefits under programs designed to meet the individual needs to their employees,

(2) the advantages of such programs for such employers and employees, and

(3) the feasibility, desirability, and appropriateness of establishing and carrying out any such flexible employment benefits program for employees of the Department of Medicine and Surgery of the Veterans' Administration.

(d) REPORTS.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study required by subsection (a). The report shall contain—

(1) the determinations of the Administrator under subsections (a) and (b); and

(2) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of the study.

SEC. 232. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

(a) REPORT.—Not later than August 1, 1988, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the Veterans' Administration's activities, and the success of those activities, designed to promote increased efforts by affiliated institutions (1) in training health-care professionals to care for older patients, and (2) in research into the aging process and diseases and disabilities associated with aging.

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

(1) Information, for each academic year from 1980-1981 through 1987-1988, on the number of affiliated institutions, shown by type of institution and type of training, that—

(A) have a program through which students or trainees receive education and training in geriatrics through regular rotation through Veterans' Administration medical centers, nursing homes, domiciliary facilities, or other units providing extended care to veterans; or

(B) have a formal program providing education and training in geriatrics; or

(C) have both such programs.

(2) Information on the number of affiliated institutions (shown by type of institution) that are planning to establish

programs as described in paragraph (1), together with a timetable for such actions.

(3) Estimates of the costs, both to the Veterans' Administration and to the affiliated institutions, of the programs described in paragraphs (1) and (2).

(4) Estimates of the number of Veterans' Administration patients receiving care or who will receive care from the students or trainees participating in programs described in paragraphs (1)(A) and (2).

(5) A description of the role of the Veterans' Administration in encouraging the establishment and continuation of the programs described in paragraph (1).

(6) The views of the Administrator on the feasibility and desirability of requiring, as a condition of the Veterans' Administration's entering into or continuing an affiliation agreement with a health-care professional training institution, the establishment with such institution of the appropriate type of arrangements described in clause (C)(i) or (C)(ii) of section 4101(f)(1) of title 38, United States Code.

(c) DEFINITION.—For purposes of this section, the term "affiliated institutions" means medical and other health-professional training schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

SEC. 301. SPECIALLY ADAPTED HOUSING ASSISTANCE.

Section 802 is amended—

(1) in subsection (a), by striking out "$35,500" and inserting in lieu thereof "$38,000"; and

(2) in subsection (b), by striking out "$6,000" and inserting in lieu thereof "$6,500".

SEC. 302. AUTOMOBILE ASSISTANCE ALLOWANCE.

Section 1902(a) is amended by striking out "$5,000" and inserting in lieu thereof "$5,500".

SEC. 303. BURIAL BENEFIT FOR SERVICE-CONNECTED DEATHS.

Section 907 is amended by striking out "$1,100" and inserting in lieu thereof "$1,500".

38 USC 802 note.

SEC. 304. EFFECTIVE DATE.

The amendments made by sections 301, 302, and 303 shall take effect on April 1, 1988.

PART B—COMPENSATION-RELATED PROVISIONS

SEC. 311. DEFINITION OF FORMER PRISONER OF WAR.

Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

SEC. 312. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES FOR FORMER PRISONERS OF WAR.

Section 312(b) is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clauses:

"(13) peripheral neuropathy except where directly related to infectious causes,

"(14) irritable bowel syndrome, or

"(15) peptic ulcer disease,".

SEC. 313. PRESUMPTION OF SERVICE CONNECTION FOR LUPUS.

Section 301(3) is amended by inserting below "Leukemia" the following: "Lupus erythematosus, systemic".

SEC. 314. REINSTATED ENTITLEMENT FOR CERTAIN SURVIVORS.

Section 156(a)(1) of Public Law 97-377 (96 Stat. 1830, 1920) is amended— 42 USC 402 note.

(1) in subparagraph (B), by inserting "or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code" after "month"; and

(2) in subparagraph (C), by inserting ", or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code," after "(42 U.S.C. 402(g))".

PART C—EDUCATION PROVISIONS

SEC. 321. MEASUREMENT OF LABORATORY INSTRUCTION.

(a) IN GENERAL.—Section 1788 is amended—

(1) in clause (B) of the first sentence of the matter following clause (7) of subsection (a), by inserting "(or two 50-minute periods)" after "two hours"; and

(2) in subsection (c), by inserting "(or two 50-minute periods)" after "two hours".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act. 38 USC 1788 note.

SEC. 322. AUTHORITY TO WAIVE COMPLIANCE SURVEYS.

The text of section 1793 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

"(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Administrator determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.".

SEC. 323. EFFECTIVE DATE OF AWARDS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATION ASSISTANCE PROGRAM.

Section 3013 is amended by inserting "32," after "31,".

PART D—INSURANCE PROVISIONS

SEC. 331. AUTHORITY FOR ANNUITY ADJUSTMENTS.

(a)(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

38 USC 727.

"§ 727. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Administrator may make such an adjustment without regard to the provisions of sections 702, 723, and 725 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in sections 702, 723, and 725 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"727. Authority for higher monthly installments payable to certain annuitants.".

(b)(1) Subchapter II of chapter 19 is amended by adding at the end the following new section:

38 USC 762.

"§ 762. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially

sound. The Administrator may make such an adjustment without regard to the provisions of section 744 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in section 744 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"762. Authority for higher monthly installments payable to certain annuitants.".

SEC. 332. EXEMPTIONS FROM STATE TAXATION.

(a) EXEMPTION.—Section 769 is amended by adding at the end the following new subsection:

"(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to premiums paid for periods beginning after June 30, 1988. 38 USC 769 note.

SEC. 333. DIRECT ADMINISTRATION OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) REVISION OF PROGRAM.—(1) Section 806 is amended to read as follows:

"§ 806. Veterans' Mortgage Life Insurance

"(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Administrator in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Administrator for information on which the premium for such insurance can be based.

"(b) The initial amount of insurance provided a veteran under this section may not exceed the lesser of $40,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance

shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

"(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator prescribes. The rates for such premiums shall be based on such mortality data as the Administrator considers appropriate to cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Administrator, the Administrator shall deduct from such compensation or other benefits the premiums charged the veteran under this section.

"(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the 'Veterans Insurance and Indemnities' appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

Appropriation authorization.

"(2) There are authorized to be appropriated to the Administrator for such account such amounts as may be necessary to carry out this section.

"(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

"(f) The Administrator may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for in this section as the Administrator determines are in the best interest of veterans or the United States.

"(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Administrator under this section.

"(h) The Administrator shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

"(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

"(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

"(2) The veteran's seventieth birthday.

"(3) Termination of the veteran's ownership of the property securing the loan.

"(4) Discontinuance of payment of premiums by the veteran.

"(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Administrator.".

(2) The item relating to section 806 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"806. Veteran's mortgage life insurance.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act. 38 USC 806 note.

(c) SAVINGS PROVISION.—Mortgage protection life insurance granted to any veteran under the former section 806 shall continue in force with the United States as insurer, subject to the terms of subsection (d). Nothing in that subsection shall impair any rights of any veteran or mortgage loan holder under the former section 806 that matured before the effective date specified in subsection (b). 38 USC 806 note.

(d) DISCONTINUANCE OF CONTRACT PROGRAM.—(1) Effective as of the effective date specified in subsection (b), the Administrator shall discontinue the policy of insurance purchased in accordance with the former section 806.

(2) All premiums collected or received by the insurer on or after such effective date under a policy purchased under the former section 806 shall be promptly forwarded to the Administrator and shall be credited to the "Veterans Insurance and Indemnities" appropriation account. Any positive balance of the contingency reserve maintained by the insurer under such policy remaining after all charges have been made shall be payable to the Administrator and shall be deposited by the Administrator in such account, except that such balance may, upon the election of the insurer, be paid by the insurer in equal monthly installments over a period of not more than two years beginning on the date, after such effective date, that the Administrator specifies.

(e) FORMER SECTION 806 DEFINED.—For the purpose of subsections (c) and (d), the term "former section 806" means section 806 of title 38, United States Code, as in effect on the day before the effective date specified in subsection (b).

PART E—MEMORIAL AFFAIRS

SEC. 341. NATIONAL CEMETERY GRAVE MARKERS.

(a) IN GENERAL.—Section 1004(c)(2) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end and inserting in lieu thereof a semicolon; and

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

"(C) in the case of any cemetery located on the grounds of or adjacent to a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers; and

"(D) in the case of grave sites of cremated remains that are interred in the ground, the Administrator may provide for flat grave markers.".

(b) GRAVE MARKERS IN CERTAIN LOCATIONS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator may provide for flat grave markers in the cases of the national cemeteries in Riverside, California; Bourne, Massachusetts; Augusta, Michigan; and Indiantown Gap, Pennsylvania; and the proposed State listing. 38 USC 1004 note.

national cemetery approved by the Administrator, as of July 31, 1987, for Northern California.

SEC. 342. CONTRIBUTIONS FOR CERTAIN PROJECTS.

Section 1004(f) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

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

"(2) The Administrator may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Administrator determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.".

SEC. 343. STATE VETERANS' CEMETERY CONSTRUCTION GRANTS.

Section 1008(b) is amended—

(1) by striking out paragraph (1);

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

(3) in paragraphs (1) and (2) (as so redesignated), by striking out "per centum" and inserting in lieu thereof "percent"; and

(4) in paragraph (2) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)".

SEC. 344. GRAVE LINERS.

(a) AUTHORITY TO PROVIDE.—Section 906 is amended by adding at the end the following new subsection:

"(e)(1) The Administrator may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket. The Secretary of the Army may provide a grave liner for such a grave in the Arlington National Cemetery.

"(2) The use of grave liners in a cemetery within the National Cemetery System or in the Arlington National Cemetery shall be in accordance with specifications and procedures approved by the Administrator or the Secretary, respectively.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 906. Headstones, markers, and grave liners".

(2) The item relating to such section in the table of sections at the beginning of chapter 23 is amended to read as follows:

"906. Headstones, markers, and grave liners.".

SEC. 345. AMERICAN BATTLE MONUMENTS COMMISSION FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121 et seq.), is amended by adding at the end the following new section:

36 USC 138c.

"SEC. 13. (a) There is hereby established in the Treasury an account to be known as the 'Foreign Currency Fluctuations, American Battle Monuments Commission, Account'. The account shall be used to provide funds, in addition to funds appropriated for salaries

and expenses of the American Battle Monuments Commission, to pay the costs of such salaries and expenses that exceed the amount appropriated therefor as a result of fluctuations in currency exchange rates of foreign countries occurring after a budget request for the Commission is submitted to Congress. The account may not be used for any other purpose. Funds in the account may be transferred to funds appropriated for salaries and expenses of the Commission.

"(b) Funds transferred under subsection (a) shall be merged with and available for the same time period as the appropriation to which they are applied. A provision of law limiting the amount of funds the Commission may obligate in any fiscal year shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) An obligation of the Commission payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) Funds transferred from the Foreign Currency Fluctuations, American Battle Monuments Commission, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) A transfer back to the account under subsection (d) may not be made after the end of the second fiscal year after the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

"(f) Not later than the end of the second fiscal year following the fiscal year for which appropriations for salaries and expenses have been made available to the Commission, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, American Battle Monuments Commission, Account, to be merged with and available for the same period and purposes as that account.

"(g) The Commission shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.". Reports.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Foreign Currency Fluctuations, American Battle Monuments Commission, Account the sum of $3,000,000. 36 USC 138c note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1988. 36 USC 138c note.

SEC. 346. TRANSFER OF THE ARIZONA VETERANS MEMORIAL CEMETERY TO THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Administrator shall enter into an agreement with the State of Arizona that— Contracts.

(1) provides for the conveyance to the United States, without consideration, of all right, title, and interest in and to the Real property.

Arizona Veterans Memorial Cemetery in the State of Arizona, consisting of approximately 225 acres; and

(2) commits the State to provide to the Veterans' Administration in a timely manner funding in the amount necessary to supplement Federal funding so that the level of operation and maintenance of the cemetery as of the date the agreement is entered into can be maintained during the three-year period beginning on the date of the conveyance of the cemetery under the agreement.

(b) CEMETERY TO BECOME PART OF THE NATIONAL CEMETERY SYSTEM.—After acceptance by the Administrator, the Arizona Veterans Memorial Cemetery shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey that is conducted at no charge to the United States and is satisfactory to the Administrator of Veterans' Affairs.

(d) TERMS AND CONDITIONS.—The Administrator may require such terms and conditions with respect to the conveyance authorized by this section as the Administrator considers appropriate to protect the interests of the United States.

(e) WAIVER OF LIABILITY FOR REPAYMENT OF VETERANS' ADMINISTRATION GRANT.—The State of Arizona is not required to repay the Veterans' Administration, by reason of the conveyance of the Arizona Veterans Memorial Cemetery under this section, the amount of any grant made to such State with respect to such cemetery under section 1008 of title 38, United States Code.

(f) EXPENDITURES.—(1) During each of the one-year periods occurring during the three-year period beginning on the date on which the conveyance under subsection (a) is made, the Administrator may not obligate appropriated funds for the operation and maintenance of the Arizona Veterans Memorial Cemetery in excess of the greater of—

(A) the amount that the Administrator estimates would have been obligated for payment during the one-year period involved to the State pursuant to section 903(b)(1) of title 38, United States Code, in connection with the burial of deceased veterans had the cemetery not been transferred to the Veterans' Administration; or

(B) the amount obligated for such purpose during fiscal year 1987.

(2)(A) Subject to subparagraph (B), in each of the fiscal years occurring during the three-year period described in paragraph (1), the Administrator shall use amounts available for payments under such section 903(b)(1) for the operation and maintenance of such cemetery.

(B) Expenditures under subparagraph (A) shall not exceed the applicable limitation under paragraph (1).

(3) The Administrator shall use all funding received from the State, as described in subsection (a)(2), for the operation and maintenance of such cemetery.

(g) ACCEPTANCE OF GIFTS.—The Administrator may accept devises, bequests, and gifts made in any manner by any person or entity for the purpose of the operation, maintenance, or improvement of the Arizona Veterans Memorial Cemetery after the Administrator has

accepted title thereto pursuant to subsection (a) and shall use the funds or property involved for the intended purpose.

(h) GRAVE MARKERS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator shall provide for the use of flat grave markers for interments at the Arizona Veterans Memorial Cemetery after the conveyance of the cemetery to the United States.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

SEC. 401. INTEGRITY OF CONTRACTING OUT PROCESS AT HEALTH-CARE FACILITIES.

(a) REQUIREMENT FOR TWO BIDDERS.—Section 5010(c)(2) is amended by inserting "responsive bids are received from at least two responsible, financially autonomous bidders and" after "only if".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to the awarding of contracts under solicitations issued after the date of the enactment of this Act. 38 USC 5010 note.

SEC. 402. STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS. 38 USC 5025 note.

Not later than October 1, 1989, the Administrator shall develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items procured by the Veterans' Administration. The plan shall provide for the procurement of generic pharmaceutical items when such procurement is more economical than procurement of a name-brand pharmaceutical item unless the Chief Medical Director of the Veterans' Administration (1) determines, after consultation with the Commissioner of the Food and Drug Administration, that an equivalent generic item is not available, or (2) determines that the procurement of a name-brand item is necessary in the interests of effective patient care.

SEC. 403. REQUIREMENTS FOR THE PROCUREMENT OF HEALTH-CARE ITEMS.

(a) IN GENERAL.—(1) Subchapter II of chapter 81 is amended by adding at the end the following new section:

"§ 5025. Procurement of health-care items 38 USC 5025.

"(a) Except as provided in subsections (b) and (c) of this section, the Administrator may not procure health-care items under local contracts.

"(b)(1) A health-care item for use by the Veterans' Administration may be procured under a local contract if—

"(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

"(B)(i) the item is not otherwise available to the Veterans' Administration medical center concerned,

"(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of

the center in accordance with regulations which the Chief Medical Director shall prescribe, or

"(iii) procurement under a local contract is demonstrably more cost-effective for the item.

"(2) In the case of the need for an emergency procurement of a health-care item, such item may be procured under a local contract, but no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

"(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all health-care items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such health-care items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

Contracts.

"(B) Local contracts for the procurement of health-care items shall, to the maximum extent feasible, be awarded to regular dealers or manufacturers engaged in the wholesale supply of such items.

"(C) The Administrator may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Administrator, based on the experience of the Veterans' Administration during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may not be delegated.

"(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

"(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a health-care item for use by the Veterans' Administration.

Reports.

"(d)(1) Not later than December 1 of each year, the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity of each health-care item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year.

Reports.

"(2) Not later than February 1 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year.

"(e) For the purposes of this section:

"(1) The term 'health-care item' includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, or 73. Such term does not include perishable items.

"(2) The term 'local contract' means a contract entered into by a Veterans' Administration medical center for procurement of an item for use by that medical center.

"(3) The term 'emergency procurement' means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Veterans' Administration, for an item.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5024 the following new item:

"5025. Procurement of health-care items.".

(b) EFFECTIVE DATES.—(1) Subsection (b)(1) of section 5025 of title 38, United States Code (as added by subsection (a)), shall take effect one year after the date of the enactment of this Act. 38 USC 5025 note.

(2) Subsection (b)(3) of such section shall apply to health-care items procured for use by the Veterans' Administration after September 30, 1990.

SEC. 404. MULTIYEAR PROCUREMENT OF CERTAIN MEDICAL ITEMS.

(a) AUTHORITY FOR MULTIYEAR CONTRACTS.—Chapter 1 is amended by adding at the end the following new section:

"§ 114. Multiyear procurement for certain medical items 38 USC 114.

"(a) The Administrator may enter into a multiyear contract for the procurement of supplies or services for use in Veterans' Administration health-care facilities if the Administrator makes each of the following determinations:

"(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

"(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

"(A) reducing costs;

"(B) achieving economies in contract administration or in any other Veterans' Administration activities;

"(C) increasing quality of performance by or service from the contractors; or

"(D) encouraging effective competition.

"(3) During the proposed contract period—

"(A) there will be a continuing or recurring need for the supplies or services being procured;

"(B) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

"(C) the specifications for the supplies or services are expected to be reasonably stable.

"(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

"(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

"(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

"(b)(1) A multiyear contract authorized by this section shall contain—

"(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

"(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

"(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

"(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

"(c) Nothing in this section shall be construed so as to restrict the Administrator's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

Regulations.

"(d) The Administrator shall prescribe regulations for the implementation of this section.

"(e) For the purposes of this section:

"(1) The term 'appropriations' has the meaning given that term in section 1511 of title 31.

"(2) The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

"(3) The term 'multiyear contract' means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

"(4) The term 'nonrecurring, unrecovered costs' means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis."

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

"114. Multiyear procurement for certain medical items.".

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

SEC. 411. SEQUESTRATION RULES APPLICABLE TO VETERANS' PROGRAMS.

(a) RESTORATION OF CERTAIN REVOLVING FUNDS.—(1) Notwithstanding section 601(b) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576), section 113(b)(2) of title 38, United States Code, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for any fiscal year after fiscal year 1985. 38 USC 113 note.

(2) The Secretary of the Treasury shall take such action as is necessary to implement paragraph (1). Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the action taken by the Secretary pursuant to that paragraph. Reports.

(b) EXTENSION OF EXEMPTION FOR CERTAIN SERVICE-CONNECTED REHABILITATION AND EDUCATION BENEFITS.—Section 113(a) is amended by striking out "(but only with respect to fiscal year 1987)" each place it appears in paragraphs (4) and (5).

(c) TECHNICAL AMENDMENTS.—Subsection (d) of such section is amended by striking out "a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office" and inserting in lieu thereof "a report of the Director of the Office of Management and Budget". Reports.

SEC. 412. CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES.

(a) OPERATION BY VETERANS' CANTEEN SERVICE.—Chapter 75 is amended by adding at the end the following new section:

"§ 4209. Child-care centers 38 USC 4209.

"(a)(1) The Administrator, through the Service, shall provide for the operation of child care centers at Veterans' Administration facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Administrator determines, based on the demand for the care involved, that such operation is in the best interest of the Veterans' Administration and that is practicable to do so. The centers shall be available for the children of Veterans' Administration employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 4161 of this title. Government organization and employees.

"(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child care services under the authority of this section.

"(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Administrator. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for

the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

"(c) In connection with the establishment and operation of any child care center under this section, the Administrator—

"(1) shall furnish, at no cost to the center, space in existing Veterans' Administration facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Administrator) for the health and safety of the children provided care at the center;

"(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Administrator may furnish basic telephone service and surplus furniture and equipment without reimbursement;

"(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

"(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

"(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

Regulations.

"(d) The Administrator shall prescribe regulations to carry out this section.

"(e) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.".

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

"4209. Child-care centers.".

SEC. 413. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

38 USC 219 note.

(a) NATIVE HAWAIIAN REPRESENTATION.—(1) Subsections (b) and (c)(3)(A) of section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272; 100 Stat. 388) are amended by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians".

(2) Subsection (g) of such section is amended to read as follows:

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

"(1) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(2) The term 'Native Hawaiian' has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).".

(b) ONE-YEAR EXTENSION.—(1) Subsection (f)(1) of such section is amended by striking out "and February 1, 1988" and inserting in lieu thereof "February 1, 1988, and February 1, 1989".

(2) Subsection (h) of such section is amended—

(A) by striking out "second" and inserting in lieu thereof "third"; and

(B) by striking out "the Committee" and inserting in lieu thereof "the Administrator".

SEC. 414. MANAGEMENT OF CANTEEN SERVICE.

(a) FINANCIAL MANAGEMENT.—(1) The second sentence of section 4205 is amended by inserting "or other interest-bearing accounts" after "checking accounts".

(2) Section 4206 is amended by striking out the second sentence.

(b) EXEMPTION OF CANTEEN SERVICE FROM PERSONNEL CEILING.—(1) Chapter 75 is amended by adding at the end the following:

"§ 4210. Exemption from personnel ceilings 38 USC 4210.

"Persons who are employed by the Service and compensated from the revolving fund established by section 4204 of this title may not be considered to be employees of the Veterans' Administration for the purposes of any personnel ceiling which may otherwise be applied to employees of the Veterans' Administration by the President or an official of the executive branch.".

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

"4210. Exemption from personnel ceilings.".

SEC. 415. TECHNICAL AMENDMENTS TO CHAPTER 37.

(a) TECHNICAL REORGANIZATION OF SUBCHAPTER I.—(1) Section 1802(a) is amended—

(A) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(B) by striking out the first sentence and inserting in lieu thereof: "The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter."; Loans.

(C) by striking out "in the preceding sentence, or in section 1818 of this title," in the second sentence and inserting in lieu thereof "in paragraph (2)";

(D) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)", respectively;

(E) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively; and

(F) by adding at the end the following:

"(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

"(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

"(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

"(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

"(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

"(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

"(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.".

(2) Subsection (g) of section 1802—

(A) is amended by striking out "1801(a)" and inserting in lieu thereof "1801(b)"; and

(B) as amended by subparagraph (A) of this paragraph, is transferred so that it will appear at the end of subsection (a) of such section and is redesignated as paragraph (4) of such subsection (a).

(3)(A) Section 1815—

(i) is amended by striking out the section heading;

(ii) is amended by redesignating subsection (a) as paragraph (2)(A) and redesignating subsection (b) as subparagraph (B); and

(iii) as amended by clauses (i) and (ii) of this subparagraph, is transferred so that it will appear as paragraph (2) of section 1803(a), as amended by subparagraph (B)(ii) of this paragraph.

(B) Section 1803 is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 1803. Basic provisions relating to loan guaranty and insurance"; and

(ii) in subsection (a) by striking out paragraph (2).

(4) Section 1807 is repealed.

(b) TECHNICAL REORGANIZATION OF SUBCHAPTERS II AND III.—(1)(A) Section 1816(a)(4)(A)(i)(I) is amended by striking out "section 1816(a)(2) of this title" and inserting in lieu thereof "paragraph (2) of this subsection".

(B) Section 1816(c)(10) is amended—

(i) in subparagraph (A), by inserting "(or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection)" after "loan"; and

(ii) in subparagraph (B)(ii), by inserting "(5)(A) or" after "under paragraph".

(C) The heading and subsections (a), (b), and (c) of section 1816, as amended by subparagraphs (A) and (B) of this paragraph, are redesignated as a new section 1832 and transferred to subchapter III of chapter 37 so that they will appear following section 1831.

(D) Subsections (d), (e), and (f) of section 1816 are redesignated as subsections (a), (b), and (c), respectively, and transferred so that they will appear after section 1832, as transferred by subparagraph (C) of this paragraph with the following heading:

"§ 1833. Property management".

(2)(A) Section 1817(a) is amended by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810".

(B) Section 1817, as amended by subparagraph (A) of this paragraph, and section 1817A are redesignated as sections 1813 and 1814, respectively, and transferred so that they will appear after section 1812, as transferred by paragraph (4)(C) of this subsection.

(3) Section 1818 is repealed.

(4)(A) Section 1819 is amended by striking out "under this section" each place it appears in subsections (a)(4)(C), (b)(1), (c)(2), (c)(4), (d)(1), (e), (f), (g) (except where it appears in the second sentence), and (h)(1) and inserting in lieu thereof "for purposes specified in this section".

(B) Section 1819(c) is amended—

(i) in the first sentence of paragraph (3) by inserting before the period the following: "as specified in paragraph (4) of this subsection";

(ii) in the second sentence of paragraph (4), by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810"; and

(iii) in the second sentence of paragraph (4), by striking out "under such section 1810" and inserting in lieu thereof "for purposes specified in such section 1810".

(C) Section 1819, as amended by subparagraphs (A) and (B) of this paragraph, is redesignated as section 1812 and transferred so that it will appear following section 1811.

(5) Section 1832—

(A) is amended by striking out the section heading;

(B) is amended by redesignating subsection (a) as subsection (d)(1) and subsection (b) as paragraph (2); and

(C) as amended by clause (A) and (B) of this paragraph, is transferred so that it will appear at the end of the new section 1833 added by paragraph (4) of this subsection.

(c) CONFORMING AMENDMENTS.—(1) Section 1801(a) is amended by striking out "1819(a)(1)" and inserting in lieu thereof "1812(a)(1)".

(2) Section 1803(c)(3) is amended—

(A) in clause (A), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)"; and

(B) in clause (E), by striking out "1819(a)(1)(G)" and inserting in lieu thereof "1812(a)(1)(G)".

(3) Section 1804 is amended—

(A) in clause (C) of subsection (c)(2), by striking out "1819(a)(5)(A)(i)" and inserting in lieu thereof "1812(a)(5)(A)(i)";

(B) in clause (D) of subsection (c)(2), by striking out "1819(e)(5)" and inserting in lieu thereof "1812(e)(5)"; and

(C) in subsection (f), by striking out "1817A" each place it appears and inserting in lieu thereof "1814".

(4) Section 1810 is amended—

(A) in subsection (a)(9)(B)(ii), by striking out "section 1819(a)(5)" and inserting in lieu thereof "section 1812(a)(5)"; and

(B) in subsection (g)(2), by striking out "section 1819(e)(2)" and inserting in lieu thereof "section 1812(e)(2)".

(5) Section 1811 is amended—

(A) by striking out "1819" each place it appears and inserting in lieu thereof "1812"; and

(B) in subsection (b), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)".

(6) Section 1829(d) is amended by striking out "1817A" and inserting in lieu thereof "1814".

(7) Any reference, in effect on the date of the enactment of this Act, in any law, rule, or regulation to any of the sections, or parts

38 USC 1802 note.

thereof, which are redesignated or transferred by this section shall be construed to refer to the section, or part thereof, as redesignated or transferred by this section.

(d) TECHNICAL AMENDMENTS.—(1) Section 1803(a)(1) is amended—

(A) in clause (A)(ii), by inserting "as specified in subparagraph (B) of this paragraph" before the period; and

(B) in clause (B), by striking out "under section 1810 of this chapter" and inserting in lieu thereof "for purposes specified in section 1810 of this title".

(2) Section 1811 is amended—

(A) in subsections (a), (b), and (g), by striking out "under section 1810 or" and inserting in lieu thereof "for purposes specified in section 1810 or"; and

(B) in subsection (d)(2)(B), by striking out "under section 1810(c)" and inserting in lieu thereof "for purposes specified in section 1810".

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 37 is amended—

(1) by striking out the item relating to section 1803 and inserting in lieu thereof the following:

"1803. Basic provisions relating to loan guaranty and insurance.";

(2) by striking out the item relating to section 1807;

(3) by striking out the items relating to subchapter II and inserting in lieu thereof the following:

"SUBCHAPTER II—LOANS

"1810. Purchase or construction of homes.
"1811. Direct loans to veterans.
"1812. Loans to purchase manufactured homes and lots.
"1813. Release from liability under guaranty.
"1814. Assumptions; release from liability.";

and

(4) by striking out the item relating to section 1832 and inserting in lieu thereof the following:

"1832. Procedure on default.
"1833. Property management.".

38 USC 1802 note.

(f) TECHNICAL NATURE OF AMENDMENTS.—The status of any veteran with respect to benefits under chapter 37 of title 38, United States Code, shall not be affected by the amendments made by, or other provisions of, this section.

PART C—REAL PROPERTY

SEC. 421. LIMITATION ON TRANSFER OF PROPERTY TO OTHER AGENCIES.

(a) GENERAL RULE.—(1) Paragraph (2) of section 5022(a) is amended to read as follows:

"(2)(A) The Administrator may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Veterans' Administration receives compensation equal to the fair market value of the property.

"(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and

administered by the Veterans' Administration and that has an estimated value in excess of $50,000.

"(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 5016 of this title.".

(2) Any proposed transfer of real property described in subparagraph (B) of section 5022(a)(2) of title 38, United States Code, as amended by paragraph (1), that is described in a report submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives by the Administrator not later than 30 days after the date of the enactment of this Act shall be deemed for purposes of subparagraph (A) of that section to have been described in the President's budget for fiscal year 1989.

Reports.
38 USC 5022 note.

(b) SPECIAL RULE.—(1) Section 234 of Public Law 99-576 is repealed.

100 Stat. 3266.

(2) The Administrator may not declare as excess to the needs of the Veterans' Administration, or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), from the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code, as in effect on that date.

California.

SEC. 422. CONGRESSIONAL PROCEDURES FOR APPROVAL OF MEDICAL FACILITY ACQUISITION AND CONSTRUCTION.

(a) PROCEDURES.—Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

"(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

"(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

"(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.".

(b) DEFINITIONS.—Section 5004(a) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) For the purpose of this subsection:

"(A) The term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

"(B) The term 'major medical facility lease' means a lease for space for use as a medical facility at an average annual rental of more than $500,000.".

(c) COST VARIATIONS.—Subsection (c) of section 5004 is amended to read as follows:

"(c) Not less than 30 days before obligating funds for a major medical facility project approved by a resolution described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the resolution for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Administrator shall provide the committees with notice of the Administrator's intention to do so and the reasons for the specified amount being exceeded.".

(d) CONFORMING REPEAL.—Such section is further amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 423. USE OF FORMER HOSPITAL IN MINOT, NORTH DAKOTA.

(a) AGREEMENT WITH SECRETARY OF LABOR.—Upon the satisfaction of the conditions specified in subsection (b), the Administrator shall enter into an agreement with the Secretary of Labor for the use by the Secretary for nominal consideration of the 20.6 acres of land in the city of Minot, North Dakota, on which the Department of the Air Force on July 31, 1987, was operating, under a no-cost use agreement with the Veterans' Administration, the John Moses Air Force Hospital and on which the Veterans' Administration Hospital, Minot, North Dakota, was formerly located.

(b) CONDITIONS.—The conditions referred to in subsection (a) are as follows:

(1) Sufficient funds are appropriated to the Department of Labor by the end of fiscal year 1989 to enable the Department to establish a Job Corps Center in North Dakota.

(2) The Secretary of Labor selects the property referred to in subsection (a) as the site for such a Job Corps Center.

(3) The Secretary agrees to use such property as a Job Corp Center for the duration of the lease agreement with the Administrator.

(c) RENEWALS.—The agreement between the Administrator and the Secretary of Labor under subsection (a) shall be renewed for nominal consideration for successive 10-year periods upon request of the Secretary of Labor.

(d) REVERSAL OF PRIOR ADMINISTRATIVE ACTION.—The action of the Veterans' Administration of September 29, 1987, in declaring the property referred to in subsection (a) to be excess to the needs of the Veterans' Administration is hereby rescinded, and such property is returned to the jurisdiction of the Veterans' Administration.

(e) PROHIBITION ON VETERANS' ADMINISTRATION EXPENDITURES.—Notwithstanding any other provision of law, the Veterans' Administration shall not expend any funds for the repair, improvement, or alteration of the property referred to in subsection (a) in connection with the use of such property by the Secretary of Labor.

SEC. 424. NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LOUISIANA.

Public buildings and grounds.

The Veterans' Administration Medical Center in Shreveport, Louisiana, shall after the date of the enactment of this Act be known

and designated as the "Overton Brooks Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Overton Brooks Veterans' Administration Medical Center.

Approved May 20, 1988.

LEGISLATIVE HISTORY—H.R. 2616 (S. 9):

HOUSE REPORTS: No. 100-191 (Comm. on Veterans' Affairs) and No. 100-578 (Comm. of Conference).
SENATE REPORTS: No. 100-215 accompanying S. 9 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 29, 30, considered and passed House.
Dec. 3, S. 9 considered in Senate.
Dec. 4, H.R. 2616 considered and passed Senate, amended, in lieu of S. 9.
Vol. 134 (1988): Mar. 29, House concurred in Senate amendments with amendments.
Apr. 27, House agreed to conference report.
Apr. 28, Senate agreed to conference report.