

## Calendar No. 292

105TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
{ 105-153

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### VETERANS' BENEFITS IMPROVEMENTS ACT OF 1997

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NOVEMBER 10, 1997.—Ordered to be printed

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Mr. SPECTER, from the Committee on Veterans' Affairs,  
submitted the following

### REPORT

[To accompany S. 986]

The Committee on Veterans' Affairs, to which was referred the bill (S. 986), the Veterans' Housing Loan Improvements Act of 1997, having considered the same, reports favorably thereon and recommends that the bill, as amended, do pass.

#### COMMITTEE BILL

The amendments are as follows:

Strike out all after the enacting clause as follows:

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

[(a) SHORT TITLE.—This Act may be cited as the “Veterans’ Housing Loan Improvements Act of 1997”.]

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

**SEC. 2. LOAN FEE.**

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

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

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

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

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

“(3) For the purposes of this section:

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

“(B) The term ‘Reservist’ means a veteran described in section 3701(b)(5)(A);

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

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

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

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

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

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

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

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

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

“Loan Fee Table

“Type of loan	Active duty veteran	Reservist	Other obligor
“Initial loan described in section 3710 (a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) .....	2.00	2.75	(1)
“Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) .....	3.00	3.00	(1)
“Loan described in section 3710(a) to purchase or construct a dwelling with 5-down .....	1.50	2.25	(1)
“Loan described in section 3710(a) to purchase or construct a dwelling with 10-down .....	1.25	2.00	(1)
“Interest rate reduction refinancing loan .....	0.50	0.50	(1)
“Direct loan made under section 3711 .....	1.00	1.00	(1)
“Manufactured home loan described in section 3712 (other than an interest rate reduction refinancing loan) .....	1.00	1.00	(1)
“Loan to Native American veteran made under section 3762 (other than an interest rate reduction refinancing loan) .....	1.25	1.25	(1)
“Assuming a loan to which section 3714 applies .....	0.50	0.50	0.50
“Loan made under section 3733(a) .....	2.25	2.25	2.25

“(1) Not applicable.

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

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

**SEC. 3. EXTENSION OF NO-BID FORMULA.**

“Section 3732(c) is amended by striking out paragraph (11) in its entirety.

**[SEC. 4. ENHANCED VENDEE LOAN SALES.**

Section 3720(h) is amended by:

- [(1) striking out paragraph (2) in its entirety; and
- [(2) striking out “(h)(1)” and inserting in lieu thereof “(h)”.

**[SEC. 5. REPEAL OF LOAN DEBT COLLECTION RESTRICTIONS.**

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

**[SEC. 6. ACCOUNT CONSOLIDATION.**

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

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

**["Sec. 3722. Veterans Housing Benefit Program Fund**

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

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

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

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

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

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

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

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

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

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

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

**[SEC. 8. CONFORMING AMENDMENTS.**

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

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

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

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

[(e) [Repealed.]”

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

[(f) Section 3733(a)(6) is amended by—

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

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

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

[(h) Section 3734 is amended by—

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

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

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

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

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

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

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

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

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

“3722. Veterans Housing Benefit Program Fund.

“[3723. Repealed.]

“[3724. Repealed.]

“[3725. Repealed.]

“[3726. Repealed.]”];

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

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

“3736. Portfolio Loan Servicing.”.

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

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

Insert in lieu thereof the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans’ Benefits Improvements Act of 1997”.

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

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

**TITLE I—CODIFICATION OF COMPENSATION RATE INCREASES**

Sec. 101. Short title.

Sec. 102. Disability compensation.

Sec. 103. Additional compensation for dependents.

Sec. 104. Clothing allowance for certain disabled veterans.

Sec. 105. Dependency and indemnity compensation for surviving spouses.

Sec. 106. Dependency and indemnity compensation for children.

Sec. 107. Effective date.

**TITLE II—AUTHORIZATIONS OF MAJOR MEDICAL PROJECTS AND LEASES**

Sec. 201. Authorization of major medical facility project.

Sec. 202. Authorization of major medical facility leases.

Sec. 203. Authorization of appropriations.

**TITLE III—OTHER MATTERS**

**Subtitle A—Improvement of Housing Loan Authorities**

Sec. 301. Consolidation of housing loan revolving funds.

Subtitle B—Improvement of Health Care Authorities

Sec. 311. Reimbursement of costs associated with compensation and pension medical examinations.

Sec. 312. Clarification of certain health care authorities.

Subtitle C—State Cemetery Grants

Sec. 321. State cemetery grants program.

Subtitle D—Other Matters

Sec. 331. Limitation on special separation incentive recoupment from veterans compensation benefits.

Sec. 332. Report on preparations for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction.

Sec. 333. Technical amendments.

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

Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**TITLE I—CODIFICATION OF COMPENSATION RATE INCREASES**

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Veterans’ Compensation Rate Increase Codification Act of 1997”.

**SEC. 102. DISABILITY COMPENSATION.**

Section 1114 is amended—

- (1) by striking out “\$87” in subsection (a) and inserting in lieu thereof “\$94”;
- (2) by striking out “\$166” in subsection (b) and inserting in lieu thereof “\$179”;
- (3) by striking out “\$253” in subsection (c) and inserting in lieu thereof “\$274”;
- (4) by striking out “\$361” in subsection (d) and inserting in lieu thereof “\$391”;
- (5) by striking out “\$515” in subsection (e) and inserting in lieu thereof “\$558”;
- (6) by striking out “\$648” in subsection (f) and inserting in lieu thereof “\$703”;
- (7) by striking out “\$819” in subsection (g) and inserting in lieu thereof “\$887”;
- (8) by striking out “\$948” in subsection (h) and inserting in lieu thereof “\$1,028”;
- (9) by striking out “\$1,067” in subsection (i) and inserting in lieu thereof “\$1,157”;
- (10) by striking out “\$1,774” in subsection (j) and inserting in lieu thereof “\$1,924”;
- (11) in subsection (k)—
  - (A) by striking out “\$70” both places it appears and inserting in lieu thereof “\$74”; and
  - (B) by striking out “\$2,207” and “\$3,093” and inserting in lieu thereof “\$2,393” and “\$3,356”, respectively;
- (12) by striking out “\$2,207” in subsection (l) and inserting in lieu thereof “\$2,393”;
- (13) by striking out “\$2,432” in subsection (m) and inserting in lieu thereof “\$2,639”;
- (14) by striking out “\$2,768” in subsection (n) and inserting in lieu thereof “\$3,003”;
- (15) by striking out “\$3,093” each place it appears in subsections (o) and (p) and inserting in lieu thereof “\$3,356”;
- (16) by striking out “\$1,328” and “\$1,978” in subsection (r) and inserting in lieu thereof “\$1,441” and “\$2,145”, respectively; and
- (17) by striking out “\$1,985” in subsection (s) and inserting in lieu thereof “\$2,154”.

**SEC. 103. ADDITIONAL COMPENSATION FOR DEPENDENTS.**

Section 1115(1) is amended—

- (1) by striking out “\$105” in clause (A) and inserting in lieu thereof “\$112”;

- (2) by striking out “\$178” and “\$55” in clause (B) and inserting in lieu thereof “\$191” and “\$59”, respectively;
- (3) by striking out “\$72” and “\$55” in clause (C) and inserting in lieu thereof “\$77” and “\$59”, respectively;
- (4) by striking out “\$84” in clause (D) and inserting in lieu thereof “\$91”;
- (5) by striking out “\$195” in clause (E) and inserting in lieu thereof “\$211”;
- and
- (6) by striking out “\$164” in clause (F) and inserting in lieu thereof “\$177”.

**SEC. 104. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.**

Section 1162 is amended by striking out “\$478” and inserting in lieu thereof “\$518”.

**SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.**

Section 1311 is amended—

- (1) in subsection (a)—
  - (A) by striking out “\$769” in paragraph (1) and inserting in lieu thereof “\$833”;
  - (B) by striking out “\$169” in paragraph (2) and inserting in lieu thereof “\$182”; and
  - (C) by striking out the table following paragraph (3) and inserting in lieu thereof the following new table:

<i>Pay grade</i>	<i>Monthly rate</i>	<i>Pay grade</i>	<i>Monthly rate</i>
<i>E-7</i> .....	<i>\$861</i>	<i>O-3</i> .....	<i>\$972</i>
<i>E-8</i> .....	<i>909</i>	<i>O-4</i> .....	<i>1,028</i>
<i>E-9</i> .....	<i>1,949</i>	<i>O-5</i> .....	<i>1,132</i>
<i>W-1</i> .....	<i>880</i>	<i>O-6</i> .....	<i>1,276</i>
<i>W-2</i> .....	<i>915</i>	<i>O-7</i> .....	<i>1,378</i>
<i>W-3</i> .....	<i>943</i>	<i>O-8</i> .....	<i>1,510</i>
<i>W-4</i> .....	<i>997</i>	<i>O-9</i> .....	<i>1,618</i>
<i>O-1</i> .....	<i>880</i>	<i>O-10</i> .....	<i>21,774</i>
<i>O-2</i> .....	<i>909</i>		

<sup>1</sup> If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$1,023.

<sup>2</sup> If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$1,902.

- (2) in subsection (b), by striking out “\$100 for each such child” and all that follows through “thereafter” and inserting in lieu thereof “\$211 for each such child”;
- (3) in subsection (c), by striking out “\$195” and inserting in lieu thereof “\$211”; and
- (4) in subsection (d), by striking out “\$95” and inserting in lieu thereof “\$102”.

**SEC. 106. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.**

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

- (1) by striking out “\$327” in clause (1) and inserting in lieu thereof “\$354”;
- (2) by striking out “\$471” in clause (2) and inserting in lieu thereof “\$510”;
- (3) by striking out “\$610” in clause (3) and inserting in lieu thereof “\$662”;
- and
- (4) by striking out “\$610” and “\$120” in clause (4) and inserting in lieu thereof “\$662” and “\$130”, respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

- (1) by striking out “\$195” in subsection (a) and inserting in lieu thereof “\$211”;
- (2) by striking out “\$327” in subsection (b) and inserting in lieu thereof “\$354”; and
- (3) by striking out “\$166” in subsection (c) and inserting in lieu thereof “\$179”.

**SEC. 107. EFFECTIVE DATE.**

The amendments made by this title shall take effect on December 1, 1996.

**TITLE II—AUTHORIZATIONS OF MAJOR MEDICAL PROJECTS AND LEASES****SEC. 201. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECT.**

(a) **AUTHORIZATION OF SEISMIC CORRECTION PROJECT.**—The Secretary of Veterans Affairs may carry out seismic corrections at the Department of Veterans Affairs medical center in Memphis, Tennessee, in the amount of \$107,600,000.

(b) **PROJECT AUTHORIZATION WHEN PARTIAL FUNDING PROVIDED.**—If the amount of funds appropriated for fiscal year 1998 or 1999 for design and partial construction of the seismic corrections project authorized in subsection (a) is less than the amount required to complete the seismic corrections project as authorized and if the Secretary obligates funds for the seismic corrections project, the project shall be deemed to be fully authorized. The authorization shall cease to have effect at the end of fiscal year 2002.

**SEC. 202. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.**

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

- (1) Lease of an information resources management field office, Birmingham, Alabama, in an amount not to exceed \$595,000.
- (2) Lease of a satellite outpatient clinic, Jacksonville, Florida, in an amount not to exceed \$3,095,000.
- (3) Lease of a satellite outpatient clinic, Boston, Massachusetts, in an amount not to exceed \$5,215,000.
- (4) Lease of a satellite outpatient clinic, Canton, Ohio, in an amount not to exceed \$735,000.
- (5) Lease of a satellite outpatient clinic, Tulsa, Oklahoma, in an amount not to exceed \$2,112,000.
- (6) Lease of a satellite outpatient clinic, Portland, Oregon, in an amount not to exceed \$1,919,000.
- (7) Lease of an information resources management field office, Salt Lake City, Utah, in an amount not to exceed \$652,000.

**SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1998 and fiscal year 1999—

- (1) for the Construction, Major Projects, account, a total of \$34,600,000 for the project authorized in section 201; and
- (2) for the Medical Care account, a total of \$14,323,000 for the leases authorized in section 202.

(b) **LIMITATION.**—The project authorized in section 201 may only be carried out using—

- (1) funds appropriated for fiscal year 1998 or fiscal year 1999 consistent with the authorization of appropriations in subsection (a);
- (2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1998 that remain available for obligation; and
- (3) funds appropriated for Construction, Major Projects for fiscal year 1998 or fiscal year 1999 for a category of activity not specific to a project.

**TITLE III—OTHER MATTERS****Subtitle A—Improvement of Housing Loan Authorities****SEC. 301. CONSOLIDATION OF HOUSING LOAN REVOLVING FUNDS.**

(a) **IN GENERAL.**—Subchapter III of chapter 37 is amended by inserting after section 3721 the following new section:

**“§ 3722. Veterans Housing Benefits Programs Fund**

“(a) There is established on the books of the Treasury of the United States a fund to be known as the Veterans Housing Benefits Programs Fund (in this section referred to as the ‘Fund’).

“(b) There shall be deposited in the Fund the following:

- “(1) Any unobligated funds as of October 1, 1997, in the direct loan revolving fund under section 3723 of this title.
- “(2) Any unobligated funds as of October 1, 1997, in the Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 3724 of this title.

“(3) Any unobligated funds as of October 1, 1997, in the Guaranty and Indemnity Fund established by section 3725 of this title.

“(4) Any amounts appropriated to the Fund.

“(5) Any fees collected by the Secretary after September 30, 1997, under section 3729 of this title, or under any other provision of law or regulations prescribed by the Secretary that imposes fees on persons participating in any housing loan program under subchapter I, II, or III of this chapter.

“(6) Any other amounts collected or received by the Secretary after September 30, 1997, as a result of activities under the housing loan programs under subchapter I, II, or III of this chapter, including—

“(A) collections of principal and interest on housing loans made by the Secretary under such programs;

“(B) proceeds from the sale, rental, use, or other disposition of property acquired under such programs;

“(C) proceeds from the sale of loans under section 3720(h) or 3733(a)(3) of this title; and

“(D) penalties collected under section 3710(g)(4)(B) of this title.

“(d) Subject to the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), amounts in the Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations and housing loan guaranty and insurance operations under subchapter I, II, or III of this chapter.”.

(b) CONFORMING REPEALS.—Sections 3723, 3724, and 3725 are repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 3711(k) is amended by striking out “and section 3723 of this title” each place it appears.

(2) Section 3720(e)(2) is amended—

(A) in the first sentence—

(i) by striking out “proportionately allocate and deposit” and all that follows through “as determined on an estimated basis,” and inserting in lieu thereof “deposit the entire proceeds received from the sale of participations under this subsection into the Veterans Housing Benefits Programs Fund established by section 3722 of this title”; and

(ii) by striking out “the funds” and inserting in lieu thereof “the fund”; and

(B) in the last sentence, by striking out “in the funds established pursuant to sections 3723 and 3724 of this chapter” and inserting in lieu thereof “the Veterans Housing Benefits Programs Fund”.

(3) Section 3733(a)(6) is amended by striking out “the Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 3724(a)” and inserting in lieu thereof “the Veterans Housing Benefits Programs Fund established by section 3722”.

(4)(A) Subsection (a)(1) of section 3734 is amended by striking out “the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund” and inserting in lieu thereof “the Veterans Housing Benefits Programs Fund”.

(B) The section heading of such section is amended by striking out “the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund” and inserting in lieu thereof “the Veterans Housing Benefits Programs Fund”.

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

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 37 is amended—

(1) by striking out the items relating to sections 3723, 3724, and 3725 and inserting in lieu thereof the following:

**“3722. Veterans Housing Benefits Programs Fund.”; and**

(2) in the item relating to section 3734, by striking out “the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund” and inserting in lieu thereof “the Veterans Housing Benefits Programs Fund”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

Subtitle B—Improvement of Health Care Authorities

**SEC. 311. REIMBURSEMENT OF COSTS ASSOCIATED WITH COMPENSATION AND PENSION MEDICAL EXAMINATIONS.**

(a) AUTHORIZATION.—Subchapter I of chapter 77 is amended by adding at the end the following new section:



**“§ 7704. Reimbursement for compensation and pension medical examinations**

“(a) REIMBURSEMENT.—The Under Secretary for Benefits may reimburse the Under Secretary for Health for costs incurred by the Under Secretary of Health for the conduct of medical examinations requested by the Under Secretary for Benefits in connection with claims for benefits under this title.

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

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

“7704. Reimbursement for compensation and pension medical examinations.”.

**SEC. 312. CLARIFICATION OF CERTAIN HEALTH CARE AUTHORITIES.**

(a) ELIGIBILITY FOR HOSPITAL CARE AND MEDICAL SERVICES.—Section 1710(a)(2)(B) is amended by striking out “compensable”.

(b) HOME HEALTH SERVICES.—Section 1717(a) is amended—

(1) in paragraph (1), by striking out “veteran’s disability” and inserting in lieu thereof “veteran”; and

(2) in paragraph (2)(B), by striking out “section 1710(a)(2)” and inserting in lieu thereof “section 1710(a)”.

(c) AUTHORITY TO TRANSFER VETERANS RECEIVING OUTPATIENT CARE TO NON-DEPARTMENT NURSING HOMES.—Section 1720(a)(1)(A)(i) is amended by striking out “hospital care, nursing home care, or domiciliary care” and inserting in lieu thereof “care”.

(d) ACQUISITION OF COMMERCIAL HEALTH CARE RESOURCES.—Section 8153(a)(3)(A) is amended by inserting “(including any Executive order, circular, or other administrative policy)” after “law or regulation”.

(e) COMPETITION IN PROCUREMENT OF COMMERCIAL HEALTH CARE RESOURCES.—Section 8153(a)(3)(B)(ii) is amended in the second sentence by inserting “, as appropriate,” after “all responsible sources”.

(f) ARRANGEMENTS FOR CARE OF NON-VETERANS.—Section 8153(e)(1) is amended to read as follows:

“(1) that care to veterans will not be diminished as a result of such an arrangement; and”.

Subtitle C—State Cemetery Grants

**SEC. 321. STATE CEMETERY GRANTS PROGRAM.**

(a) AMOUNT OF GRANTS.—Section 2408(b) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraphs (1) and (2):

“(1) The amount of any grant under this section may not exceed the following:

“(A) In the case of a grant for the establishment of a new cemetery, an amount equal to the total of—

“(i) the cost of improvements to be made on the land to be acquired or dedicated for the cemetery; and

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

“(B) In the case of a grant for the expansion or improvement of an existing cemetery, an amount equal to the total of—

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

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

“(2) If the amount of a grant for a cemetery under this section is less than the amount of the costs with respect to the cemetery described in the applicable subparagraph of paragraph (1) of this subsection, the State receiving the grant shall contribute the amount by which such costs exceed the amount of the grant less the value of any land acquired or dedicated by the State for the cemetery.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

Subtitle D—Other Matters

**SEC. 331. LIMITATION ON SPECIAL SEPARATION INCENTIVE RECOUPMENT FROM VETERANS COMPENSATION BENEFITS.**

(a) IN GENERAL.—

(1) Chapter 53 is amended by inserting after section 5304 the following new section:

**“§ 5304A. Recoupment of special separation benefits from compensation: limitation**

“In the case of a veteran with a service-connected disability who is entitled to compensation and who is paid special separation benefits under section 1174a of title 10, the amount of compensation otherwise payable to that veteran that is deducted pursuant to section 1174a(g) of title 10 by reason of the payment to that veteran of such benefits may not exceed 75 percent of the total amount of the benefits paid to the veteran.”

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

“5304A. Recoupment of special separation benefits from compensation: limitation.”.

(b) EFFECTIVE DATE.—Section 5304A of title 38, United States Code, as added by subsection (a), shall apply with respect to payment of compensation by the Secretary of Veterans Affairs for months beginning after December 5, 1991.

**SEC. 332. REPORT ON PREPARATIONS FOR A NATIONAL RESPONSE TO MEDICAL EMERGENCIES ARISING FROM THE TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.**

(a) FINDINGS.—Congress makes the following findings:

(1) There is a need for improved coordination among the departments and agencies of the Federal Government in planning and carrying out a national response to medical emergencies arising from the terrorist use of weapons of mass destruction.

(2) All departments and agencies of the Federal Government which would be called upon to respond to such emergencies need to be involved in planning such response.

(3) The Federal Government needs a comprehensive plan to ensure the establishment and maintenance within the emergency response elements of the Federal Government and State and local governments of a reliable and efficient capability to provide training to, and evaluation of, emergency response personnel and facilities in responding to such medical emergencies.

(b) REPORT.—

(1) Not later than March 1, 1998, the President shall submit to Congress a report on the plans, preparations, and capability of the Federal Government and State and local governments for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction. The report shall be submitted in unclassified form, but may include a classified annex.

(2) The report should be prepared in consultation with the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Director of the Federal Emergency Management Agency, and the heads of any other departments and agencies of the Federal Government that will be involved in responding to such emergencies. The President shall designate a lead agency for purposes of the preparation of the report.

(c) CONTENTS.—The report shall include the following:

(1) A description of the steps taken by the Federal Government to plan and prepare for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction.

(2) A description of the laws and agreements governing the responsibilities of the various departments and agencies of the Federal Government, and of State and local governments, for the response to such emergencies, and an assessment of the interrelationship of such responsibilities under such laws and agreements.

(3) Recommendations, if any, for the simplification or improvement of such responsibilities.

(4) An assessment of the current level of preparedness for such response of all departments and agencies of the Federal Government and State and local governments that are responsible for such response.

(5) A current inventory of the existing medical assets from all sources which can be made available for such response.

(6) Recommendations, if any, for the improved or enhanced use of the resources of the Federal Government and State and local governments for such response.

(7) The name of the official or office of the Federal Government designated to coordinate the response of the Federal Government to such emergencies.

(8) A description of the lines of authority between the departments and agencies of the Federal Government to be involved in the response of the Federal Government to such emergencies.

(9) A description of the roles of each department and agency of the Federal Government to be involved in the preparations for, and implementation of, the response of the Federal Government to such emergencies.

(10) The estimated costs of each department and agency of the Federal Government to prepare for and carry out its role as described under paragraph (9).

(11) A description of the steps, if any, being taken to create a funding mechanism for the response of the Federal Government to such emergencies.

**SEC. 333. TECHNICAL AMENDMENTS.**

(a) **PLOT ALLOWANCE FOR DEATHS IN DEPARTMENT FACILITIES.**—Section 2303(a)(2)(A) is amended by striking out “a Department facility (as defined in section 1701(4) of this title)” and inserting in lieu thereof “a facility of the Department (as defined in section 1701(3) of this title)”.

(b) **EDUCATIONAL ASSISTANCE ALLOWANCE FOR CERTAIN INDIVIDUALS PURSUING COOPERATIVE PROGRAMS.**—Section 3015(e)(1) is amended—

(1) by striking out “(1) Subject to paragraph (2)” and inserting in lieu thereof “(1)(A) Except as provided in subparagraph (B) of this paragraph and subject to paragraph (2)”; and

(2) by adding at the end the following:

“(B) Notwithstanding subparagraph (A) of this paragraph, in the case of an individual described in that subparagraph who is pursuing a cooperative program on or after October 9, 1996, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual for pursuit of full-time institutional training under chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.”

(c) **ELIGIBILITY OF CERTAIN VEAP PARTICIPANTS TO ENROLL IN MONTGOMERY GI BILL.**—Section 3018C(a) is amended—

(1) in paragraph (1), by striking out “the date of the enactment of the Veterans’ Benefits Improvements Act of 1996” and inserting in lieu thereof “October 9, 1996,”;

(2) in paragraph (4), by striking out “during the one-year period specified” and inserting in lieu thereof “after the date on which the individual makes the election described”; and

(3) in paragraph (5), by striking out “the date of the enactment of the Veterans’ Benefits Improvements Act of 1996” and inserting in lieu thereof “October 9, 1996”.

(d) **ENROLLMENT IN OPEN CIRCUIT TELEVISION COURSES.**—Section 3680A(a)(4) is amended by inserting “(including open circuit television)” after “independent study program” the second place it appears.

(e) **ENROLLMENT IN CERTAIN COURSES.**—Section 3680A(g) is amended by striking out “subsections (e) and (f)” and inserting in lieu thereof “subsections (e) and (f)(1)”.

(f) **CERTAIN BENEFITS FOR SURVIVING SPOUSES.**—Section 5310(b)(2) is amended by striking out “under this paragraph” in the first sentence and inserting in lieu thereof “under paragraph (1)”.

Amend the title so as to read: “A bill to codify the December 1, 1996, increase in the rates and limitations of compensation and dependency and indemnity compensation payable by the Secretary of Veterans Affairs, to authorize major medical facility projects and leases of the Department of Veterans Affairs, to extend and improve other authorities of the Secretary, and for other purposes.”.

**INTRODUCTION**

On February 6, 1997, the President submitted to the Congress the Administration’s proposed fiscal year 1998 budget. Among other things, the proposed budget included requests for authority for the Department of Veterans Affairs (VA) to expend funds for one major medical construction project and a number of major medical leases.

On February 26, 1997, the Committee held a hearing on the proposed budget for veterans’ programs. The Committee received testimony from the Honorable Jesse Brown, Secretary of Veterans Affairs, and from representatives of The American Legion, Veterans

of Foreign Wars, Disabled American Veterans, AMVETS, and Paralyzed Veterans of America. Subsequently, the Committee and then the Congress approved certain measures that became part of the Balanced Budget Act 1997, Public Law 105-33. That legislation, however, contained no provisions relating to VA construction or lease authorizations.

On July 7, 1997, Committee Chairman Arlen Specter introduced S. 986 at the request of the Administration. S. 986 would have, among other things, amended certain provisions of law relating to VA's housing loan programs.

On July 7, 1997, Committee Chairman Specter also introduced S. 987 at the request of the Administration. S. 987 would have, among other things, provided for transfers of funds within VA to facilitate the provision of medical examinations for purposes of the adjudication of claims for VA benefits. S. 987 would also have modified authorities relating to VA assistance to the States for the construction of veterans' cemeteries.

On July 25, 1997, the Committee held a hearing to receive testimony on S. 986, on S. 987, on other bills pending before the Committee, and on Committee Prints before the Committee, including a Committee Print which would have (a) authorized major medical construction projects and leases for fiscal year 1998; (b) codified previously enacted cost-of-living adjustment (COLA) increases in certain VA benefits; and (c) made clarifying and technical amendments to previously enacted legislation. The Committee received testimony from Senator Daniel K. Inouye, Senator Barbara Boxer, Representative Bob Filner, and Representative Benjamin A. Gilman, and received testimony for the record from Representative Sue W. Kelly. The Committee also received testimony from Stephen L. Lemons, Ed.D., VA's Acting Under Secretary for Benefits, Thomas L. Garthwaite, M.D., VA's Deputy Under Secretary for Health, and from representatives of The American Legion, Veterans of Foreign Wars, Disabled American Veterans, and Vietnam Veterans of America. Testimony was also submitted for the record of the hearing by the Office of Veterans Affairs, Philippine Embassy; Paralyzed Veterans of America; AMVETS; the American Coalition for Filipino Veterans; the Coordinating Council of Leaders of Veterans Organizations in Southern California; Filipino War Veterans, Incorporated; the National Coalition for Homeless Veterans; and LA Vets.

On October 1, 1997, Committee Member James M. Jeffords introduced S. 1247, a bill to limit the amount of recoupment from veterans' disability compensation that is required in the case of veterans who have received special separation benefits from the Department of Defense.

#### COMMITTEE MEETING

After carefully reviewing the testimony from the hearings of February 26, 1997, and July 25, 1997, the Committee met in open session on October 7, 1997, and voted by unanimous voice vote to report S. 986, as amended, favorably to the Senate.

## SUMMARY OF S. 986 AS REPORTED

S. 986, as reported (hereinafter referred to as the “Committee bill”), contains provisions that would (a) codify previously enacted COLA increases; (b) authorize major medical construction projects and leases; (c) consolidate housing loan revolving funds; (d) authorize transfers of funds within VA to facilitate the provision of medical examinations for purposes of the adjudication of claims for VA benefits; (e) clarify authorities relating to the provision of health care services by VA; (f) modify VA’s State cemetery grant program; (g) limit the recoupment of special separation incentive payments from VA compensation; (h) require reporting on preparations for a national response to medical emergencies arising from terrorist use of weapons of mass destruction; and (i) make technical amendments to previously enacted authorities relating to the provision of benefits by VA.

## DISCUSSION

## TITLE I. CODIFICATION OF COMPENSATION RATE INCREASES

Title I of the Committee bill, which is derived from a Committee Print, would codify the adjusted compensation and dependency and indemnity compensation (DIC) rates that resulted from the enactment of the Veterans’ Compensation Cost-of-Living Adjustment Act of 1996, Public Law 104–263, and the Veterans’ Compensation Cost-of-Living Adjustment Act of 1995, Public Law 104–57. The affected compensation and DIC rates are the following:

(a) basic compensation rates for veterans with service-connected disabilities, and special rates payable for certain severe disabilities;

(b) additional amounts of compensation paid to service-connected veterans rated 30 percent or more disabled for spouses, children, and dependent parents;

(c) annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out clothing or requires the use of a medication prescribed by a physician for a service-connected skin condition if the medication causes irreparable damage to the veteran’s outer garments; and

(d) DIC rates paid to:

(i) surviving spouses of veterans whose deaths were service-connected;

(ii) surviving spouses for dependent children;

(iii) surviving spouses who are so disabled that they need aid and attendance or are permanently housebound; and

(iv) children of veterans whose deaths were service-connected if no surviving spouse is entitled to DIC and the child is either age 18 through 22 and attending an approved educational institution, or at least age 18 and became permanently incapable of self-support prior to reaching age 18.

### *Background*

The Veterans' Compensation Cost-of-Living Adjustment Act of 1996, Public Law 104-263, enacted on October 9, 1996, provided a cost-of-living adjustment (COLA), effective December 1, 1996, in the rates of compensation paid to veterans with service-connected disabilities and in the rates of dependency and indemnity compensation (DIC) paid to the survivors of certain veterans who had service-connected disabilities. Previously, the Veterans' Compensation Cost-of-Living Adjustment Act of 1995, Public Law 104-57, enacted on November 22, 1995, provided a similar cost-of-living adjustment (COLA), effective December 1, 1995.

Congress has traditionally enacted the annual veterans' compensation COLA in a form that specifically indicates the new, adjusted compensation and DIC rates in the appropriate sections of title 38 of the United States Code. The calculation of new rates is based on the actual rate of inflation for the prior Federal fiscal year, which ends on September 30. The inflation rate, as expressed in the increase in the Consumer Price Index (CPI) as calculated by the Department of Labor, Bureau of Labor Statistics (BLS), for this period is not published until the middle or end of October.

In 1996, Congress passed the annual COLA legislation prior to the end of Federal fiscal year 1996. At that time, the actual inflation rate, as expressed in the increase in the CPI for the prior year, had not yet been published. Accordingly, the enacted legislation could not set forth the new compensation and DIC rates. Instead, it required VA to compute increased compensation and DIC rates by reference to the same percentage as the automatic increases for Social Security and VA pension benefits—i.e., the prior year's inflation rate as expressed by BLS's computation of the prior year's increase in the CPI.

In 1995, Congress took similar action in enacting Public Law 104-57. As was the case in 1996, legislation to put into effect COLA increases was approved by the Committee before the CPI was available. Accordingly, the legislation directed VA to compute adjusted compensation and DIC rates when the CPI increase as computed by BLS was released.

### *Committee bill*

The Committee bill would codify the rates of compensation and DIC that took effect pursuant to Public Law 104-263. Since those rates were based on those previously adjusted by VA pursuant to Public Law 104-57, this codification will place into effect the adjustments made by both Public Laws 104-57 and 104-263.

Codification of the actual rates of compensation and DIC will ensure that title 38, United States Code, is current, and it will assist in informing veterans, survivors, and others of the current rates.

#### TITLE II. AUTHORIZATIONS OF MAJOR MEDICAL PROJECTS AND LEASES

Title II of the Committee bill, which is derived from a Committee Print, would authorize one major VA construction project and seven major VA leases. Authority for each project or lease was requested by VA in the proposed fiscal year 1998 budget submitted to the Congress on February 6, 1997.

*Background*

Section 8104 of title 38, United States Code, specifies that no funds will be appropriated for, and that VA may not obligate or expend funds on, “major” medical facility construction projects or “major” medical facility leases, unless each such project is authorized by law. In its proposed fiscal year 1998 budget, VA requested authorizations for one major construction project and a number of major leases.

*Construction Project.*—In 1971, the San Fernando, California, area was struck by an earthquake which occurred along the San Andreas fault line. The then-San Fernando VA Hospital was severely damaged, resulting in the loss of 46 lives and subsequent abandonment by the VA.

Subsequent to the 1971 earthquake, VA established a Structural Advisory Board, which meets periodically to review and recommend modifications to the seismic standards with which VA medical facilities will comply. Over time, these standards have been adjusted and made more stringent.

The Memphis VA Medical Center (VAMC) was built in the early 1960’s near the New Madrid fault line. In the mid-19th century, an earthquake on the New Madrid fault line caused the Mississippi River to flow northward for a period and made its effects felt as far away as Boston, Massachusetts. It is predicted that, before the middle of the 21st century, another major earthquake will occur on the New Madrid fault line. At the time of construction, the Memphis VAMC complied with seismic standards then in force; those standards, however, have become more stringent since the date of construction.

*Medical Facility Leases.*—Over time, health care services in the United States have increasingly been provided on an outpatient basis. The Committee has stressed to VA its determination that VA must adopt this model of providing care, and Congress facilitated the adoption of that model of care by enactment, in 1996, of the “Veterans’ Health Care Eligibility Reform Act of 1996,” Public Law 104–262.

*Committee bill*

Section 201 of the Committee bill would authorize the Secretary of Veterans Affairs to undertake a construction project to upgrade the Memphis VAMC to comply with current seismic standards. The amount authorized is \$107,600,000.

Section 202 of the Committee Bill would authorize VA to enter into leases for use as VA satellite medical facilities or information resource management field offices. The sites of these projects and the amounts authorized are as follows: (1) Birmingham, AL, information resource management field office, \$595,000; (2) Jacksonville, FL, satellite outpatient clinic, \$3,095,000; (3) Boston, MA, satellite outpatient clinic, \$5,215,000; (4) Canton, OH, satellite outpatient clinic, \$735,000; (5) Tulsa, OK, satellite outpatient clinic, \$2,112,000; (6) Portland, OR, satellite outpatient clinic, \$1,919,000; and (7) Salt Lake City, UT, information resource management field office, \$652,000.

Section 203 of the Committee bill authorizes appropriations for the major construction projects and major leases listed in sections 201 and 202.

#### TITLE III. OTHER MATTERS

Title III of the Committee bill is derived from S. 986, as introduced, S. 987, S. 1247, and from Committee Prints. Its four subtitles would (1) consolidate certain VA home loan revolving funds; (2) authorize intra-VA fund transfers to facilitate the provision of compensation and pension medical exams; (3) clarify provisions of law enacted in the “Veterans’ Health Care Eligibility Reform Act of 1996,” Public Law 104–262; (4) modify VA’s State cemetery grant program; (5) limit the funds that would be recouped from VA compensation payments made to veterans who had previously received special separation incentive payments when they departed service; (6) require the preparation of a report on national preparedness for medical emergencies stemming from terrorist use of weapons of mass destruction; and (7) make technical corrections to provisions of law enacted in the “Veterans’ Benefits Improvements Act of 1996,” Public Law 104–275.

#### Subtitle A—Improvement of Housing Loan Authorities

##### *Section 301. Consolidation of housing loan revolving funds*

###### *Background*

VA administers a number of home loan “revolving funds,” funds into which all income from housing loan operations (such as fees, loan repayments, and property sale proceeds) are deposited, and from which all expenses related to loan operations (such as paying the claim on the guaranty and acquiring and maintaining properties), except for administrative expenses (such as salaries and office space), are paid. Currently, four such revolving funds exist: the Guaranty and Indemnity Fund; the Loan Guaranty Revolving Fund; the Direct Loan Revolving Fund; and the Native American Veterans Direct Housing Loan Pilot Program Fund.

The Guaranty and Indemnity Fund provides funding for all loans guaranteed since January 1, 1990, for conventionally built homes. Approximately 250,000 loans are guaranteed each year. The Loan Guaranty Revolving Fund provides funding for loans guaranteed before January 1, 1990, for conventionally-built homes. This fund also finances all manufactured home loans (now less than 50 per year).

The Direct Loan Revolving Fund was created to provide direct mortgage money to veterans residing in rural areas that lack accessible lending institutions. This fund also provides funding for direct loans made to certain veterans with 100 percent service-connected disabilities who qualify for Specially Adapted Housing benefits under chapter 21 of title 38, United States Code. VA currently makes fewer than two direct loans in connection with Specially Adapted Housing per year.

The Native American Veterans Direct Housing Loan Pilot Program Fund performs a similar direct-loan function with respect to the building, or purchasing, of homes on Native American lands.



Conventional lenders will not finance such housing loans—even with VA guaranties—since lenders would be precluded by law from taking possession of Native lands in the event of default.

While the existence of separate revolving funds was useful and necessary at one time, the Federal Credit Reform Act of 1990 (FCRA) (Public Law 101–508) has made separate funds unnecessary. FCRA applies to all Federal credit programs and it requires, in summary, that each be self-sufficient. The policies of FCRA (assured loan program self sufficiency via user fees and partial government funding) were already in effect with respect to VA’s Guaranty and Indemnity Fund, the funding source for post-January 1, 1990, VA home loans. They were not, however, applied to VA’s Loan Guaranty Revolving Fund (the funding source guaranteeing pre-January 1, 1990 home loans) and VA’s Direct Loan Revolving Fund. With enactment of FCRA, such policies were extended to these other VA home loan funds.

With FCRA-mandated accounting consistency, there is no longer any compelling reason to segregate funds. Now, identical accounting systems are applied to all, and separate fund accounting yields no benefit. It does, however, create unnecessary complexity.

#### *Committee bill*

Section 301 of the Committee bill would consolidate the three VA home loan revolving funds which existed when FCRA was enacted—the Guaranty and Indemnity Fund, the Loan Guaranty Revolving Fund, and the Direct Loan Revolving Fund—into a single fund, the “Veterans Housing Benefits Programs Fund.” After enactment, all appropriated funding to VA home loan programs (except funds specifically designated for the Native American home loan program, which would remain separate) would be deposited into the new fund. Further, all income attributable to the three non-Native American funds—i.e., proceeds from sales, rentals, or other uses of acquired foreclosed properties, loan repayment, and loan user fees—would be deposited into the new fund.

#### Subtitle B—Improvement of Health Care Authorities

##### *Section 311. Reimbursement of costs associated with compensation and pension medical examinations.*

#### *Background*

VA’s Veterans Benefits Administration (VBA) is responsible for determining veterans’, and others’, eligibility for benefits administered by VA. Many such benefits—among them, compensation for veterans with service-connected disabilities; dependency and indemnity compensation for the survivors of service personnel of veterans who have died from service-connected disabilities; pension for certain wartime veterans who are permanently and totally disabled due to non-service-connected disabilities—require that an assessment be made of the claimant’s medical history and status. VBA does not have independent expertise to make such assessments; therefore, it generally relies on VA’s Veterans Health Administration (VHA) to perform medical examinations of claimants when necessary. VHA currently receives appropriated funding in the medical care account to perform or contract for such examinations.

*Committee bill*

The Committee bill would authorize VBA to reimburse VHA for the costs incurred by VHA in performing or securing such medical examination services. The Committee notes that while its intention is to facilitate VBA “purchasing” of such services from VHA, the Committee also intends that before such “purchasing” would take place, funds now appropriated to the medical care account to fund VHA-provided examinations would be redirected by separate appropriations legislation to VBA’s General Operating Expense funding source for this purpose.

*Section 312. Clarification of certain health care authorities.**Background*

The “Veterans’ Health Care Eligibility Reform Act of 1996,” Public Law 104–262, contained numerous amendments related to the provision of health care benefits by VA. The most notable provisions of Public Law 104–262 affected “eligibility reform” by simplifying eligibility standards governing priority access to VA health care services, and by eliminating prior legal distinctions which had the effect of allowing easier access to inpatient services than outpatient services. Public Law 104–262 specified that, henceforth, priority-eligible veterans (mainly, the service-connected and the poor) will have access to hospital care and “medical services,” a term which includes, among other things, outpatient and preventive services.

The statute, as enacted, contained numerous provisions that merit clarification. Section 312 of the Committee bill contains such clarifications.

*Committee bill*

*Section 312(a).* Public Law 104–262 provides that veterans who have not been adjudicated as service-connected by VA, but who were discharged from service due to a “compensable” disability, will have the same priority access to VA health care services as the service-connected. When the military discharges persons due to disability, however, it does not state whether or not the disability is “compensable.” Public Law 104–262, therefore, would appear to require that a determination be made of “compensability”—a requirement that would be tantamount to requiring a finding of service connection and, in effect, render the entire provision as a separate basis for priority a nullity.

Section 312(a) of the Committee bill would strike the term “compensable” from 38 U.S.C. §1710(a)(2)(B) to provide that those discharged from service due to disability—not due to “compensable” disability—have priority access to VA care.

*Section 312(b).* Prior to Public Law 104–262, VA provided care for “disabilities.” Public Law 104–262, however, authorized VA to provide needed care without regard to whether that care addressed a particular “disability.” A separate authority (38 U.S.C. §1717(a)), under which VA is authorized to provide home health services, carries over the requirement that care address a “disability,” creating a legal situation whereby hospital care, outpatient care, and other

health care services need not address a “disability,” but home health services must.

*Section 312(c).* Section 1720 of title 38, United States Code, authorizes VA to transfer VA inpatients to non-VA nursing home care. That section was unaffected by Public Law 104–262. However, the underlying rationale for enactment of Public Law 104–262—the removal of nonclinical reasons for placing patients into inpatient care—would be advanced by removing a nonclinical reason for a hospital admission stated in section 1720: the requirement that VA patients first be receiving VA inpatient care before they can be referred to non-VA nursing home care.

Section 312(c) of the Committee bill would amend 38 U.S.C. §1720(a)(1)(A)(i) to allow such transfers (as otherwise limited by statute) to be afforded to “VA patients”—not VA “hospital, nursing home, or domiciliary” patients.

*Section 312(d).* Section 8153 of title 38, United States Code, as amended by Public Law 104–262, authorizes VA to enter into “sharing agreements” with non-VA health care providers as limited by §8153 but, otherwise, “without regard to any law or regulation that would otherwise require the use of competitive procedures for procuring the resource . . . .” It has been suggested that the term “regulation” is unclear—i.e., it may or may not include within its scope “executive orders, circulars, or other administrative policies.” Such policy directives significantly affect Federal contracting policy.

Section 312(d) of the Committee bill would remove any ambiguity by adding a reference to “executive orders, circulars, or other administrative policies” to 38 U.S.C. §8153(a)(3)(A).

*Section 312(e).* When Congress amended VA’s “sharing agreement” authority, it freed VA from restrictive regulatory requirements and authorized VA to adopt “simplified procedures.” Even so, however, the Congress directed that VA’s simplified procedures “permit all responsible sources” (emphasis added) to compete. It has been suggested that a requirement that “all” be allowed to compete denies VA the ability to limit the number of bids it will consider and is, therefore, contrary to the underlying goal of simplification.

Section 312(e) of the Committee bill would amend 38 U.S.C. §8153(a)(3)(B)(ii) to require VA to “permit all responsible sources, as appropriate,” to compete.

*Section 312(f).* A limitation imposed by Public Law 104-262 on VA’s “sharing agreement” authority—which includes authority for VA to provide care to other care providers’ nonveteran patients in return for reciprocal arrangements to care for VA patients—is the statutory requirement that, under any such agreement, “veterans will receive priority under such an arrangement.” 38 U.S.C. §8153(e)(1). It has been suggested that individual sharing agreements may not contain reciprocal arrangements—i.e., they may specify VA’s obligations to treat the “partner’s” patients, leaving the “partner’s” reciprocal obligations to another document—and that, in such arrangements, veteran-patients may not be granted priority since the contract does not even provide for care to veteran-patients.

Section 312(f) of the Committee bill would amend 38 U.S.C. §8153(e)(1) to require that VA will enter into sharing agreements only if “care to veterans will not be diminished as a result of such an arrangement,” rather than requiring that each such arrangement give priority to veteran-patients.

#### Subtitle C—State Cemetery Grants

##### *Section 321. State cemetery grants program*

###### *Background*

VA is authorized to make grants to the States to assist them in establishing, expanding, and improving State veterans’ cemeteries. Under current law, the amount of a State cemetery grant may not exceed 50 percent of the total value of the land to be acquired or dedicated for a cemetery, and 50 percent of the cost of improvements to be made on the land. The remaining amount must be contributed by the State that receives the grant.

###### *Committee bill*

The Committee bill would amend Section 2408(b)(1) of title 38, United States Code, to authorize VA, in the case of the establishment of a new cemetery, to grant (1) the total cost of improvements necessary to dedicate land for cemetery use, and (2) the total initial “startup” cost of equipment necessary to operate the cemetery. In the case of expansions or improvements of existing cemeteries, VA would be authorized to grant an amount equal to the total cost of improvements to be made on land to be added to the cemetery, and the cost of improvements to be made to the existing cemetery. In both cases, VA would no longer provide grants to support the acquisition of land for cemetery use. It is the Committee’s intention that States be given incentives to establish State cemeteries.

#### Subtitle D—Other Matters

##### *Section 331. Limitation on special separation incentive recoupment from veterans compensation benefits*

###### *Background*

Under current law, a service member who voluntarily leaves service may receive a “special separation bonus” (SSB), a cash payment computed by reference to his or her service pay grade and number of years service, in order to induce the separation from service and to facilitate transition to civilian status. In the event that a person who received an SSB subsequently becomes eligible for VA compensation, his or her compensation payments will, in accordance with sections 1174 and 1174a of title 10, United States Code, be offset by an amount equal to the amount of the SSB received. Special separation bonus payments are taxable as income; VA compensation is not.

###### *Committee bill*

Section 331 of the Committee bill would specify that the amount of the SSB which is offset would not exceed 75 percent of the SSB payment amount. The Committee has concluded that the offsetting

of the entire SSB payment from VA compensation is unfair when the tax status of the two forms of payment is considered. To cite a hypothetical, a person who receives a taxable payment of \$10,000 “takes home” approximately \$7,500, not \$10,000. It may be appropriate, in the Committee’s view, to offset the net benefit the SSB recipient “takes home” (\$7,500), but to offset the entire amount, especially from nontaxable VA compensation, is excessive. Thus, the Committee bill specifies that the offset from compensation will not exceed 75 percent of the SSB payment.

*Section 332. Report on preparations for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction*

*Background*

A number of Federal agencies are responsible for policies for combating the spread of weapons of mass destruction, and for responding to the ill-effects of such weapons. The Committee has tentatively concluded, however, that VA—a Federal agency which has extensive medical treatment, research, and training resources—has not been fully integrated into preparations for responding to potential terrorist attacks in the United States using weapons such as chemical or biological agents.

*Committee bill*

The Committee bill would require the President to submit to Congress a report, no later than March 1, 1998, on the plans, preparations, and capability of Federal, State and local agencies for responding to the medical emergencies arising from the terrorist use of weapons of mass destruction.

This report, which would be prepared in consultation with the Secretary of Defense, Secretary of Health and Human Services, Secretary of Veterans Affairs, Director of the Federal Emergency Management Agency, and heads of other interested departments and agencies, would: (1) describe the steps taken by the Federal Government to prepare for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction; (2) describe the laws, agreements, responsibilities, and interrelationships of the various departments and agencies of the Federal, State, and local governments for responding to such emergencies; (3) assess current levels of preparedness; (4) inventory existing medical assets that can be made available for such a response; and (5) make recommendations for improved or enhanced use of resources of the Federal Government.

*Section 333. Technical Amendments*

*Background*

The “Veterans’ Benefits Improvements Act of 1996,” Public Law 104–275, made various amendments to VA benefits programs, including modifications to VA educational benefits, housing and memorial affairs, employment and training, and insurance benefits programs. The statute also contained a number of administrative provisions applicable to VA, and it created the Commission on Service Members and Veterans Transition Assistance.

The statute, as enacted, contained numerous technical errors which section 333 of the Committee bill would correct.

*Committee bill*

*Section 333(a).* Prior to enactment of Public Law 104–275, 38 U.S.C. § 2302 specified that a veteran who died in a “Department facility (as defined in section 1701(4) of this title)” would be entitled to a payment to assist in defraying certain burial and funeral expenses. Section 2302, as it existed prior to enactment of Public Law 104–275, contained a clerical error: “Department facility” is *not* defined in section 1701(4) of title 38, it is defined in section 1701(3).

Section 212 of Public Law 104–275 amended section 2302 to extend the burial benefit previously limited to those who died in VA facilities to those who died in State veterans homes. In so amending section 2302, Public Law 104–275 reenacted the improper citation to the definition of “Department facility.”

The technical amendment would correct the error which predated, but which was perpetuated by, Public Law 104–275 by substituting “1701(3)” for “1701(4).”

*Section 333(b).* Prior to enactment of Public Law 104–275, students enrolled in “cooperative training programs”—i.e., those which combine college courses and job-site training—were entitled to educational assistance under 38 U.S.C. Chapter 30 (the Montgomery GI Bill or “MGIB”) at 80 percent of the rate paid to full-time students. Public Law 104–275 increased the rate of educational assistance paid to these students to 100 percent of the rate paid to full-time students.

Public Law 104–275 provided for an increase of benefits to “conventional” MGIB participants. Due to a drafting oversight, however, it failed to include a parallel increase to Vietnam-era veterans who were originally eligible for educational assistance under 38 U.S.C. chapter 34, and who had “converted” their eligibility under that chapter to MGIB eligibility. Thus, “conventional” MGIB beneficiaries are paid at a 100 percent rate, but Vietnam-era beneficiaries of MGIB are not.

The technical correction would remedy the above-noted oversight by adding a provision to 38 U.S.C. § 3015(e) governing benefits to former chapter 34-eligible veterans relating to “cooperative training programs.”

*Section 333(c).* Veterans who served between 1977 and 1985 (the “Post-Vietnam Era”) are eligible for educational assistance benefits under 38 U.S.C. chapter 32 (the Post-Vietnam Era Educational Assistance, or “VEAP,” program). Those who served from 1986 to the present are eligible for MGIB educational assistance benefits. Prior to enactment of section 106 of Public Law 104–275, VEAP participants could not elect to “convert” to MGIB eligibility; under section 106, veterans who were participating in VEAP on October 9, 1996, were authorized for a 1-year period to convert to MGIB.

As drafted, Public Law 104–275 specified that persons who elect to convert to MGIB during the 1-year election period and who are discharged under honorable conditions from the military during that 1-year election period, would be eligible to convert. It did not specify what discharge status would be required of those who elect-

ed to convert during the 1-year period but who were discharged after the expiration of that period.

The technical amendment clarifies that those eligible for VEAP can convert to MGIB if (1) they so elect during the 1-year period specified in Public Law 104–275 and (2) they are at any time thereafter discharged from service under honorable conditions.

*Section 333(d).* Prior to enactment of Public Law 104–275, VA would pay educational benefits to persons enrolled in open circuit television courses only if he or she was concurrently enrolled in in-residence study. At the same time, VA paid educational benefits to veterans enrolled in “independent study” courses, in conjunction with or separate from in-residence study, so long as the course leads to standard college credit. Public Law 104–275 applied the “independent study” rule to open circuit television courses of instruction—i.e., veterans can receive assistance when they take open circuit television courses, as part of or separate from in-residence study if the course is for college credit.

As drafted, Public Law 104–275 attempted to add the words “(including open circuit television)” courses everywhere in the statute where reference was made to “independent study” courses, in order to make it clear that both types of study are subject to the same “for college credit only” rule. *See, e.g.*, 38 U.S.C. §3523(a)(4). The statute, however, missed one such cross reference at 38 U.S.C. §3680A(a)(4).

The technical amendment would add the above-noted cross reference.

*Section 333(e).* Prior to enactment of Public Law 104–275, rules governing the payment of VA educational benefits based on a veteran’s enrollment in institutions in operation for less than 2 years were specified in 38 U.S.C. §3689. Section 103 of Public Law 104–275 recodified a new “2-year” rule in 38 U.S.C. §3680A(e)–(g). The new rule specifies, in summary, that non-degree-granting institutions will be subject to a “2-year rule,” and that degree-granting institutions (and their branches) are exempted from the “2-year rule.” It provides, further, that special rules will be applied in cases where a contractor provides instruction for another institution: first, the “2-year rule” will be applied to the contractor which actually offers the instruction; and, second, in any case, the course must be approved by VA. Finally, the new rule specifies that VA may, on a case-by-case basis, approve a course of study, notwithstanding the “2-year rule,” if the course is being provided on or near a military post under contract with the Department of Defense (DOD) or Department of Transportation (DOT) (in the case of the Coast Guard).

As 38 U.S.C. §3680 is currently drafted, it authorizes VA to approve courses, on a case-by-case basis, at DOD/DOT facilities even if: (1) the DOD-contractor has been in operation for less than 2 years, 38 U.S.C. §3680A(e); (2) the DOD-contractor’s subcontractor has been in operation for less than 2 years, 38 U.S.C. §3680A(f)(1); and (3) the provider/course of study has not been approved, 38 U.S.C. §3680A(f)(2). As a matter of legislative draftsmanship, the third exemption is flawed; it states that VA has authority to approve a course of study even if the course of study has not been approved. VA, of course, would have an interest in approving no

other kind of course, and it did not need reference to a specific authority to do that.

The technical amendment, therefore, eliminates the cross reference to subsection (f)(2). It make no substantive change to the provisions of Public Law 104–275 which allow VA to approve “on post” courses, on a case-by-case basis, notwithstanding the “2 year rule.”

*Section 333(f).* Prior to enactment of Public Law 104–275, veterans were entitled to compensation or pension only for months during which they were alive for the entire month. Therefore, when a veteran who had been receiving compensation or pension died, his or her estate (commonly, a spouse) was required to refund to VA the last check received.

Section 506 of Public Law 104–275 specified that a veteran’s surviving spouse would be entitled to retain compensation or pension paid for the month of the veteran’s death. In so stating, however, section 506 used technically inaccurate language: it stated that the surviving spouse would be entitled to retain benefits paid “under this paragraph” rather than benefits paid “under this subsection.”

The technical amendment corrects this error by substituting the term “subsection” for “paragraph.”

#### COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office (CBO), estimates that, compared to the CBO baseline, there would be no costs or savings resulting from enactment of the Committee bill.

The cost estimate provided by CBO follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 4, 1997.*

Hon. ARLEN SPECTER,  
*Chairman, Committee on Veterans’ Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 986, the Veterans’ Benefits Improvements Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Valerie Brown, Shawn Bishop, Jeannette Deshong, and Mary Helen Petrus.

Sincerely,

JUNE E. O’NEILL, *Director.*

Enclosure.

*S. 986—A bill to amend title 38, United States Code, to make certain improvements in the housing loan programs for veterans and eligible persons, and for other purposes*

Summary: S. 986 would affect several veterans’ programs, including medical care, disability compensation, and grants for cemeteries. CBO estimates that enacting the bill would increase annual direct spending by a negligible amount over the 1998–2002 period.



The direct spending costs of the bill would occur largely after 2003 and would accumulate to about \$100 million by 2012. Because the bill would raise direct spending, pay-as-you-go procedures would apply. In addition, enacting S. 986 would raise spending subject to appropriations by about \$13 million in 1998 and \$63 million over the five-year period. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: Table 1 displays the estimated costs of S. 986 over the 1998–2002 period. The costs of this bill would fall within budget function 700 (veterans benefits and services).

TABLE 1.—BUDGETARY IMPACT OF S. 986  
[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002
DIRECT SPENDING					
Estimated budget authority .....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Estimated outlays .....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level .....	54	5	5	5	5
Estimated outlays .....	13	9	15	15	11

<sup>1</sup> Less than \$500,000.

Note: The costs of this legislation would fall under budget function 700 (veterans' affairs).

### *Direct spending*

The direct spending would stem from provisions that would increase payments of disability compensation to certain veterans and certain readjustment benefits.

*Disability Compensation.*—In 1991, the Congress authorized special payments to personnel who separate voluntarily from military service prior to September 30, 1999, but are not eligible to receive retirement benefits. One of the separation incentives is a lump-sum payment known as the special separation benefit (SSB). The laws that authorize the separation payments also prohibit veterans from receiving those payments and veterans' disability compensation if both stem from a single period of service. For SSB recipients who separated prior to September 30, 1996, that prohibition results in a delay in receiving the disability compensation until the full amount of the bonus is offset.

S. 986 would limit the offset required for veteran's disability compensation to 75 percent of the value of any SSB payment received after December 5, 1991. CBO estimates that roughly 10,800 recipients of SSB would be affected. Under current law, disability payments for SSB recipients are delayed for more than 10 years on average. The bill would shorten the period until a veteran would begin receiving disability compensation by about three years, so that by 2006, the majority of these SSB recipients would qualify for payments—about \$3,000 annually. Near-term costs would be negligible because most disability compensation would still be deferred. CBO estimates that costs for the additional years of compensation eligibility would total \$100 million through 2012.

*Readjustment Benefits.*—The bill would provide for an increase of about \$220 per month in educational assistance for those individuals who, as of December 31, 1989, were entitled to benefits under Chapter 34 and who are pursuing a program of cooperative education. This provision would have an insignificant cost because it would affect only a small number of individuals.

*Spending subject to appropriations*

The bill would increase the authorization of appropriations for construction and leases of medical facilities, and grants to state cemeteries.

*Major Construction and Facility Leases.*—The bill would authorize the appropriation of \$35 million for the Department of Veterans' Affairs (VA) to complete seismic corrections to its medical facility in Memphis, Tennessee, and \$14 million in 1998 for several specific leasing agreements. For construction, CBO estimates VA would spend under \$200,000 in 1998 and \$33 million over the 1998–2002 period. For leases, CBO estimates that VA would spend \$13 million in 1998 and \$1 million in 1999.

The bill would also authorize VA to use unobligated balances, in addition to new appropriations, to carry out the seismic corrections at the Memphis facility, up to a total cost of \$107.6 million. The unobligated balances would be derived from amounts appropriated for fiscal years before 1998. CBO estimates that this authorization would have no budgetary impact because spending of these balances under the bill would not differ significantly from spending for the projects that were funded originally.

*State Cemetery Grants Program.*—To receive a grant for a cemetery under current law, a state must contribute a combination of land and funds. The bill would allow states to contribute more land and less funding to satisfy the matching requirement. CBO expects that enactment of this provision would raise states' participation and result in an expanded grant program. Based on information from VA, CBO estimates that this provision would raise spending for this program by about \$5 million a year, which would add outlays of \$16 million over the 1998–2002 period, assuming appropriation of the necessary funds.

TABLE 2.—BUDGETARY IMPACT OF S. 986 ON SPENDING SUBJECT TO APPROPRIATIONS

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
MAJOR CONSTRUCTION AND MEDICAL FACILITY LEASES						
Spending under current law for medical construction:						
Estimated authorization level <sup>1</sup> .....	219	32	0	0	0	0
Estimated outlays .....	559	243	126	53	20	9
Proposed changes:						
Estimated authorization level .....	0	49	0	0	0	0
Estimated outlays .....	0	13	7	11	10	6
Spending under S. 986 for medical construction:						
Estimated authorization level .....	219	82	0	0	0	0
Estimated outlays .....	559	258	133	64	30	15
STATE CEMETERY GRANTS PROGRAM						
Spending under current law for State cemetery grants:						
Estimated authorization level <sup>2</sup> .....	1	1	1	1	1	1
Estimated outlays .....	3	2	1	1	1	1

TABLE 2.—BUDGETARY IMPACT OF S. 986 ON SPENDING SUBJECT TO APPROPRIATIONS—  
Continued

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Proposed changes:						
Estimated authorization level .....	0	5	5	5	5	5
Estimated outlays .....	0	0	2	4	5	5
Spending under S. 986 for State cemetery grants:						
Estimated authorization level .....	1	6	6	6	6	6
Estimated outlays .....	3	2	3	5	6	6

<sup>1</sup>The 1997 and 1998 levels are the amounts appropriated for those years as of September 30, 1997.<sup>2</sup>The 1997 level is the amount appropriated for that year. Amounts for fiscal years 1998 through 2002 are subject to appropriation.

**Pay-As-You-Go Effects:** The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Because the bill would affect direct spending, pay-as-you-go procedures would apply. The projected changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

## SUMMARY OF PAY-AS-YOU-GO EFFECTS

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Change in outlays .....	0	0	0	0	0	4	18	27	30	14
Changes in receipts .....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Not applicable.

**Estimated Impact on State, Local, and Tribal Governments:** S. 986 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would modify a program that provides grants to states for establishing or expanding veterans cemeteries.

**Estimated Impact on the private Sector:** This bill would impose no new private-sector mandates as defined in UMRA.

**Previous CBO Estimate:** On October 1, 1997, CBO prepared a cost estimate for H.R. 2571, a bill to authorize major construction and leases of VA medical facilities. The estimates for H.R. 2571 and comparable provisions of S. 986 differ slightly because of small differences in the amounts authorized.

**Estimate prepared by:** Federal Cost: The estimates of federal costs were prepared by Mary Helen Petrus (state cemetery grants), Shawn Bishop (medical care), Jeannette Deshong (disability compensation), and Valerie Barton (readjustment benefits); Impact on State, Local, and Tribal Governments: Marc Nicole; Impact on the Private Sector: Rachel Schmidt.

**Estimate approved by:** Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

## REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact that would be incurred in

carrying out the Committee bill. The Committee finds that the Committee bill would not entail any regulation of individuals or businesses or result in any impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

#### TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by members of the Committee on Veterans Affairs at its October 7, 1997, meeting. On that date, the Committee, by unanimous voice vote, ordered S. 986 reported favorably to the Senate.

#### AGENCY REPORT

On July 25, 1997, Stephen L. Lemons, Ed.D., Acting Under Secretary for Benefits, and Thomas L. Garthwaite, M.D., Deputy Under Secretary for Health, Department of Veterans Affairs, submitted testimony on, among other things, S. 714, S. 986, and a Committee Print which would have extended authorities relating to the provision of services to homeless veterans, VA authority to conduct a pilot program for the provision of noninstitutional alternatives to nursing home care, VA authority to operate a Health Professional Scholarship Program, and VA authority to enter into enhanced use leases. An excerpt from that testimony is reprinted below:

#### STATEMENT OF DR. STEPHEN L. LEMONS, ACTING UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS, JULY 25, 1997

Mr. Chairman and Members of the Committee: I am pleased to be here this morning to discuss those items on your agenda that would impact the Veterans Benefits Administration, the National Cemetery System, and the Board of Veterans' Appeals. Your letter of invitation asked that we address each of the following bills and draft proposals: S. 987 (VA requested draft legislation proposing a compensation cost-of-living-adjustment and other program improvements); S. 464; S. 623; S. 714; S. 730; Committee Print (to increase the Medal of Honor pension); S. 813; S. 986 (VA requested draft legislation proposing home loan program improvements); Committee Print (to make technical amendments to Public Law 104-275); and Committee Print (codification of FY 1997 cost-of-living adjustment legislation, Pub. L. No. 104-263).

#### S. 987 (COMPENSATION COLA AND PROGRAM IMPROVEMENTS)

S. 987, which the Chairman introduced at VA's request, would authorize a cost-of-living adjustment (COLA) for fiscal year (FY) 1998 in the rates of disability compensation and dependency and indemnity compensation (DIC), and would revise and improve certain veterans compensation, pension, and memorial affairs programs. We thank the

Chairman for introducing this bill, and urge its favorable consideration.

\* \* \* \* \*

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

In order to assure that funding for compensation and pension medical examinations is available throughout FY 1998, appropriate language would need to be included in both the "Medical care" and "General operating expenses" appropriations. It is contemplated that VBA will enter into a memorandum of understanding with VHA to provide that, should funds budgeted under general operating expenses for the purpose of "purchasing" compensation and pension medical examinations prove insufficient, alternate funding under "Medical care" would be available to permit VHA to continue to provide these examinations. Medical care funds would be used for this purpose only in the event of a shortfall in general operating expenses.

Section 201(a) of S. 987 would amend section 2408(b) of title 38, United States Code, to make state cemetery grants more attractive to States. Section 2408 authorizes the Secretary of Veterans Affairs to make grants to States to assist them in establishing, expanding, or improving State veterans' cemeteries. Currently, the amount of a State cemetery grant is limited to 50 percent of the total of the value of the land to be acquired or dedicated for a cemetery and the cost of improvements to be made on the land. The remaining amount must be contributed by the State receiving the grant. Pursuant to the amendments proposed in this section, the amount of a State cemetery grant could not exceed, in the case of the establishment of a new cemetery, the total of the cost of improvements to be made on land to be converted into a cemetery and the initial cost of equipment necessary to operate the cemetery. In the case of the expansion or improvement of an existing cemetery, the amount of the grant could not exceed the total of the cost of improvements to be made on any land to be added to the cemetery combined with the cost of improvements to be made to the existing cemetery. If the amount of a grant should, for any reason, be less than the amount of those costs, the State receiving the grant would be required to contribute the remaining amount, in addition to providing any land necessary for the cemetery project.

Also, under current law, if at the time of a grant the State receiving the grant dedicates for the cemetery land which it already owns, the value of the land may constitute up to 50 percent of the State's contribution. Once that land value is so used, it may not constitute part of the

State's contribution for any subsequent grant under section 2408. Under the amendments proposed in section 201(a) of this draft bill, a State would be responsible for providing any land required for a cemetery project, since the grant amount would no longer be based partly on the value of land to be acquired or dedicated for a cemetery.

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

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

Section 201(b) of S.987 would authorize "no-year" appropriations for the State cemetery grants program. Under current 38 U.S.C. §2408(d), funds appropriated for State cemetery grants remain available only until the end of the second fiscal year following the fiscal year for which they are appropriated. However, in Public Law No. 104-204, 110 Stat. 2874 (1996), Congress appropriated funds for State cemetery grants, "to remain available until expended." Section 201(b) would amend section 2408(d) to reflect this no-year-funding policy.

\* \* \* \* \*

S. 986 (VA DRAFT LEGISLATION PROPOSING IMPROVEMENTS IN  
THE HOME LOAN PROGRAMS)

Mr. Chairman, you also requested that we comment on S. 986, a bill that you introduced at VA's request, which would make certain improvements in VA's housing loan programs to save costs, provide management efficiencies, and extend the sunset on certain expiring authorities.

More particularly, you asked that we focus our testimony on those provisions of S. 986 that have not already been approved by the Committee as part of budget reconciliation legislation. Thus, the following discussion is confined to sections 2, 6, 7, and 8 of the bill that would permanently extend several cost-saving measures originally enacted by the Omnibus Budget Reconciliation Act (OBRA) of 1993, increase the funding fee for "vendee" loans available to the general public, consolidate the funding for the housing loan program into one new account, extend for 2 years the pilot program for direct loans to Native American veterans, and make conforming and technical amendments.

\* \* \* \* \*

Section 6 of the bill would consolidate the funding sources for the VA housing loan programs (except the pilot program for direct loans to Native American veterans) into a new fund in the Treasury. The consolidation would include the Direct Loan Revolving Fund (DLRF), the Loan Guaranty Revolving fund (LGRF), and the Guaranty and Indemnity Fund (GIF). Consistent with the Federal Credit Reform Act of 1990 (FCRA), the new Treasury fund, to be known as the "Veterans Housing Benefit Program Fund," would be available, without fiscal year limitation, for all VA housing loan operations (except the pilot program for direct loans to Native American veterans). This section would be effective October 1, 1997.

While having separate funds may have had some merit at one time, the enactment of the FCRA rendered the need for the separate LGRF, GIF, and DLRF unnecessary. Having three separate funds makes VA's accounting and budget records and procedures unnecessarily complex without any apparent benefit. In fact, the current system of breaking down costs by three funds makes it more difficult to determine the true cost of VA loan program operations. Accordingly, VA urges enactment of this provision.

\* \* \* \* \*

Section 8 of the bill contains conforming amendments related to the consolidation of home loan funds and the elimination of obsolete language, such as references to participation certificates under section 3720 which have not been sold since the 1960s and to provisions repealed by implication by the FCRA. VA believes these amendments to be necessary for the maintenance of a current title 38.

COMMITTEE PRINT—TECHNICAL AMENDMENTS TO PUB. L. NO.  
104-275

This draft bill would make technical amendments to several provisions of title 38, United States Code. Our General Counsel has reviewed each of these for technical accuracy and we support their enactment.

COMMITTEE PRINT—CODIFICATION OF 1997 COST-OF-LIVING  
ADJUSTMENT ENACTED BY PUB. L. NO. 104-263

This draft bill would amend pertinent provisions of title 38, United States Code, to reflect the current rates of disability compensation and dependency and indemnity compensation (DIC) which became effective on December 1, 1996. These rates reflect the most recent cost-of-living adjustment in these rates as authorized by Pub. L. No. 104-263. We support the enactment of this proposal.

\* \* \* \* \*

Thank you, again, Mr. Chairman, for seeking our views on each of the measures on today's agenda. We will be pleased to respond to questions you or other Members of the Committee may have regarding this testimony.

\* \* \* \* \*

STATEMENT OF THOMAS L. GARTHWAITE, M.D., DEPUTY  
UNDER SECRETARY FOR HEALTH, DEPARTMENT OF VETERANS  
AFFAIRS, JULY 25, 1997

Mr. Chairman and Members of the Committee: I am pleased to be here to discuss the array of bills being considered by the Committee. Included is S. 801, a bill that would make changes in procedures for resolving complaints of employment discrimination and sexual harassment, S. 999, a bill pertaining to setting standards for how frequently we should offer mammograms to women veterans, and a draft bill that would change our health care resource allocation system. You also asked that we comment on a bill making technical amendments to the eligibility legislation enacted last year, a bill extending a number of expiring authorities, a draft bill containing authorizations for constructions projects, and finally, S. 309, a bill pertaining to parking fees at a VA facility in Hawaii.

\* \* \* \* \*

DRAFT BILL—TECHNICAL AMENDMENTS TO P.L. 104-262

Also before you today is a draft bill that would make a number of technical and relatively minor amendments to the eligibility reform law that Congress enacted last Fall. We reviewed all of the proposed changes and they appear to be warranted. Accordingly, we support enactment of the bill.

\* \* \* \* \*



DRAFT BILL—AUTHORIZATION OF MAJOR VA MEDICAL  
FACILITY PROJECTS AND LEASES

The final draft bill on today's agenda would authorize VA to carryout a major medical facility construction project and to enter into major medical facility leases. We support the enactment of the bill.

First, it would authorize the construction of a seismic corrections project in Memphis, Tennessee, in the amount of \$107,600,000. It would allow the major medical facility project to be deemed fully authorized if the amount of funds appropriated for fiscal year 1998 or 1999 for design and partial construction is less than the amount required to complete the construction of the project as authorized and if the Secretary obligates funds for such construction of the major medical facility. Such authorization shall cease to have effect at the close of fiscal year 2002.

The draft bill would also authorize seven leases. Two of the leases are for information resources management field offices. One would be in Birmingham, Alabama, in an amount not to exceed \$595,000. The second would be in Salt Lake City, Utah, in an amount not to exceed \$652,000. The other five leases are all for satellite outpatient clinics. They include a clinic in Jacksonville, Florida, in an amount not to exceed \$3,095,000; a clinic in Boston, Massachusetts, in an amount not to exceed \$5,215,000; a clinic in Canton, Ohio, in an amount not to exceed \$735,000; a clinic in Tulsa, Oklahoma, in an amount not to exceed \$2,112,000; and a clinic in Portland, Oregon, in an amount not to exceed \$1,919,000.

The draft bill would authorize for appropriation for fiscal years 1998 and 1999, \$34,600,000 for the construction project, and \$14,323,000 for the leases. It would also allow the construction to be carried out by (1) using funds appropriated for fiscal year 1998 or fiscal year 1999 consistent with the authorization of appropriations in the bill; (2) using funds appropriated for major construction projects for a fiscal year before fiscal year 1998 that remain available for obligation; and (3) funds appropriated for major construction projects for fiscal years 1998 or 1999 for a category of activity not specific to a project.

Mr. Chairman, this ends my statement. I will be pleased to answer any questions you may have.

CHANGES IN EXISTING LAW MADE BY S. 986, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Committee bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## TITLE 38, UNITED STATES CODE

\* \* \* \* \*

### PART II—GENERAL BENEFITS

#### CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

\* \* \* \* \*

##### Subchapter II—Wartime Disability Compensation

\* \* \* \* \*

#### § 1114. Rates of wartime disability compensation

For the purposes of section 1110 of this title—

- (a) if and while the disability is rated 10 percent the monthly compensation shall be ~~【\$87】~~ *\$94*;
- (b) if and while the disability is rated 20 percent the monthly compensation shall be ~~【\$166】~~ *\$179*;
- (c) if and while the disability is rated 30 percent the monthly compensation shall be ~~【\$253】~~ *\$274*;
- (d) if and while the disability is rated 40 percent the monthly compensation shall be ~~【\$361】~~ *\$391*;
- (e) if and while the disability is rated 50 percent the monthly compensation shall be ~~【\$515】~~ *\$558*;
- (f) if and while the disability is rated 60 percent the monthly compensation shall be ~~【\$648】~~ *\$703*;
- (g) if and while the disability is rated 70 percent the monthly compensation shall be ~~【\$819】~~ *\$887*;
- (h) if and while the disability is rated 80 percent the monthly compensation shall be ~~【\$948】~~ *\$1,028*;
- (i) if and while the disability is rated 90 percent the monthly compensation shall be ~~【\$1,067】~~ *\$1,157*;
- (j) if and while the disability is rated as total the monthly compensation shall be ~~【\$1,774】~~ *\$1,924*;
- (k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be ~~【\$70】~~ *\$74* per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed ~~【\$2,207】~~ *\$2,393* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by ~~【\$70】~~ *\$74* per month for each such loss or loss of use, but in no event to exceed ~~【\$3,093】~~ *\$3,356* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be ~~【\$2,207】~~ \$2,393;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be ~~【\$2,432】~~ \$2,639;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be ~~【\$2,768】~~ \$3,003;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be ~~【\$3,093】~~ \$3,356;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Secretary may allow the next higher rate or an intermediate rate, but in no event in excess of ~~【\$3,093】~~ \$3,356. In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 30 percent disabling, the Secretary shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear or service-connected anatomical loss or loss of use of one

hand or one foot, the Secretary shall allow the next intermediate rate, but in no event in excess of ~~【\$3,093】~~ \$3,356. In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling, the Secretary shall allow the next intermediate rate, but in no event in excess of ~~【\$3,093】~~ \$3,356. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Secretary shall allow the next higher rate or intermediate rate, but in no event in excess of ~~【\$3,093】~~ \$3,356. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned;

[(q) \* \* \*]

(r) Subject to section 5503(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of ~~【\$1,328】~~ \$1,441; or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of ~~【\$1,978】~~ \$2,145, in lieu of the allowance authorized in clause (1) of this subsection, if the Secretary finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care. For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Department or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician. For the purposes of section 1134 of this title, such allowance shall be considered as additional compensation payable for disability.

(s) If the veteran has a service-connected disability rated as total, and

(1) has additional service-connected disability or disabilities independently ratable at 60 percent or more, or,

(2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be ~~【\$1,985】~~ \$2,154. For the

purposes of this subsection, the requirement of “permanently housebound” will be considered to have been met when the veteran is substantially confined to such veteran’s house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran’s lifetime.

**§ 1115. Additional compensation for dependents**

Any veteran entitled to compensation at the rates provided in section 1114 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional compensation for dependents in the following monthly amounts:

- (1) If and while rated totally disabled and—
  - (A) has a spouse but no child, ~~[\$105]~~ \$112;
  - (B) has a spouse and one or more children, ~~[\$178]~~ \$191 plus ~~[\$55]~~ \$59 for each child in excess of one;
  - (C) has no spouse but one or more children, ~~[\$72]~~ \$77 plus ~~[\$55]~~ \$59 for each child in excess of one;
  - (D) has a parent dependent upon such veteran for support, then, in addition to the above amounts, ~~[\$84]~~ \$91 for each parent so dependent;
  - (E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be ~~[\$195]~~ \$211 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and
  - (F) notwithstanding the other provisions of this paragraph, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be ~~[\$164]~~ \$177 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

\* \* \* \* \*

**§ 1162. Clothing allowance**

The Secretary under regulations which the Secretary shall prescribe, shall pay a clothing allowance of ~~[\$478]~~ \$518 per year to each veteran who—

- (1) \* \* \*

\* \* \* \* \*

**CHAPTER 13—DEPENDENCY AND INDEMNITY  
COMPENSATION FOR SERVICE-CONNECTED DEATHS**

\* \* \* \* \*

**Subchapter II—Dependency and Indemnity Compensations**

\* \* \* \* \*

**§ 1311. Dependency and indemnity compensation to a surviving spouse**

(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of ~~[\$769]~~ \$833.

(2) The rate under paragraph (1) shall be increased by ~~[\$169]~~ \$182 in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran's disability for purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):

[Pay grade	Monthly rate	Pay grade	Monthly rate
E-7 .....	\$794	O-3 .....	\$897
E-8 .....	838	O-4 .....	948
E-9 .....	<sup>1</sup> 875	O-5 .....	1,044
W-1 .....	812	O-6 .....	1,177
W-2 .....	844	O-7 .....	1,271
W-3 .....	869	O-8 .....	1,392
W-4 .....	920	O-9 .....	1,492
O-1 .....	812	O-10 .....	<sup>2</sup> 1,636
O-2 .....	838		

<sup>1</sup>If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$943.

<sup>2</sup>If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,753.]

Pay grade	Monthly rate	Pay grade	Monthly rate
E-7 .....	\$861	O-3 .....	\$972
E-8 .....	909	O-4 .....	1,028
E-9 .....	<sup>1</sup> 949	O-5 .....	1,132
W-1 .....	880	O-6 .....	1,276
W-2 .....	915	O-7 .....	1,378
W-3 .....	943	O-8 .....	1,510
W-4 .....	997	O-9 .....	1,618
O-1 .....	880	O-10 .....	<sup>2</sup> 1,774
O-2 .....	909		

<sup>1</sup>If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,023.

<sup>2</sup>If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,902.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and in-

demnity compensation paid monthly to the surviving spouse shall be increased by **[\$100** for each such child during fiscal year 1993, \$150 for each such child during fiscal year 1994, and \$200 for each such child thereafter] *\$211* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by **[\$195]** *\$211* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by **[\$95]** *\$102* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

\* \* \* \* \*

#### **§ 1313. Dependency and indemnity compensation to children**

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

- (1) one child, **[\$327]** *\$354*;
- (2) two children, **[\$471]** *\$510*;
- (3) three children, **[\$610]** *\$662*; and
- (4) more than three children, **[\$610]** *\$662*, plus **[\$120]** *\$130* for each child in excess of three.

(b) \* \* \*

#### **§ 1314. Supplemental dependency and indemnity compensation to children**

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by **[\$195]** *\$211*.

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[\$327]** *\$354*.

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course

of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of ~~[\$166]~~ \$179.

\* \* \* \* \*

**CHAPTER 17—HOSPITAL, NURSING HOME,  
DOMICILIARY, AND MEDICAL CARE**

\* \* \* \* \*

**Subchapter II—Hospital, Nursing Home or Domiciliary Care  
and Medical Treatment**

**§ 1710. Eligibility for hospital, nursing home, and domiciliary care**

(a)(1) \* \* \*

\* \* \* \* \*

(2) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services, and may furnish nursing home care, which the Secretary determines to be needed to any veteran—

(A) \* \* \*

(B) whose discharge or release from active military, naval, or air service was for a ~~compensable~~ disability that was incurred or aggravated in the line of duty;

\* \* \* \* \*

**§ 1717. Home health services; invalid lifts and other devices**

(a)(1) As part of medical services furnished to a veteran under section 1710(a) of this title, the Secretary may furnish such home health services as the Secretary finds to be necessary or appropriate for the effective and economical treatment of the ~~veteran's disability~~ *veteran*.

(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) \$4,100 in the case of medical services furnished under section 1710(a)(1) of this title, or for a disability described in section 1710(a)(2)(C) of this title; or

(B) \$1,200 in the case of medical services furnished under any other provision of ~~section 1710(a)(2)~~ *section 1710(a)* of this title.

\* \* \* \* \*



**§ 1720. Transfers for nursing home care; adult day health care**

(a)(1) Subject to subsection (b) of this section, the Secretary may transfer to a non-Department nursing home, for care at the expense of the United States—

(A) a veteran

(i) who has been furnished [hospital care, nursing home care, or domiciliary care] care by the Secretary in a facility under the direct jurisdiction of the Secretary; and

(ii) \* \* \*

\* \* \* \* \*

**CHAPTER 23—BURIAL BENEFITS**

\* \* \* \* \*

**§ 2303. Death in Department facility; plot allowance**

(a)(1) \* \* \*

\* \* \* \* \*

(2) A facility described in this paragraph is—

(A) [a Department facility (as defined in section 1701(4) of this title)] a facility of the Department (as defined in section 1701(3) of this title) to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 1710 or 1711(a) of this title; or

(B) \* \* \*

\* \* \* \* \*

**CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS**

\* \* \* \* \*

**§ 2408. Aid to States for establishment, expansion, and improvement of veterans' cemeteries**

(a)(1) \* \* \*

\* \* \* \* \*

(b) Grants under this section shall be subject to the following conditions:

[(1) The amount of any grant under this section may not exceed an amount equal to 50 percent of the total of the value of the land to be acquired or dedicated for the cemetery and the cost of the improvements to be made on such land, with the remaining amount to be contributed by the State receiving the grant.

[(2) If at the time of a grant under this section the State receiving the grant dedicates for the purposes of the cemetery involved land already owned by the State, the value of such land may be considered in determining the amount of the State's contribution under paragraph (1) of this subsection, but the value of such land may not be used for more than an amount equal to 50 percent of the amount of such contribution and may not be used as part of such State's contribution for any subsequent grant under this section.]

(1) *The amount of any grant under this section may not exceed the following:*

(A) *In the case of a grant for the establishment of a new cemetery, an amount equal to the total of—*

(i) *the cost of improvements to be made on the land to be acquired or dedicated for the cemetery; and*

(ii) *the initial cost of equipment necessary to operate the cemetery.*

(B) *In the case of a grant for the expansion or improvement of an existing cemetery, an amount equal to the total of—*

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

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

(2) *If the amount of a grant for a cemetery under this section is less than the amount of the costs with respect to the cemetery described in the applicable subparagraph of paragraph (1) of this subsection, the State receiving the grant shall contribute the amount by which such costs exceed the amount of the grant less the value of any land acquired or dedicated by the State for the cemetery.*

(3) \* \* \*

\* \* \* \* \*

**CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM**

\* \* \* \* \*

**Subchapter II—Basic Educational Assistance**

\* \* \* \* \*

**§ 3015. Amount of basic educational assistance**

(a) \* \* \*

\* \* \* \* \*

(e) [(1) Subject to paragraph (2)] (1)(A) *Except as provided in subparagraph (B) of this paragraph and subject to paragraph (2) of this subsection, in the case of an individual who on December 31, 1989, was entitled to educational assistance under chapter 34 of this title, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual under such chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.*

(B) *Notwithstanding subparagraph (A) of this paragraph, in the case of an individual described in that subparagraph who is pursuing a cooperative program on or after October 9, 1996, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be*

applicable to such individual for pursuit of full-time institutional training under chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.

(2) \* \* \*

\* \* \* \* \*

**§ 3018C. Opportunity for certain VEAP participants to enroll**

(a) Notwithstanding any other provision of law, an individual who—

(1) is a participant on [the date of the enactment of the Veterans' Benefits Improvements Act of 1996] *October 9, 1996*, in the educational benefits program provided by chapter 32 of this title;

(2) \* \* \*

\* \* \* \* \*

(4) if discharged or released from active duty [during the one-year period specified] *after the date on which the individual makes the election described* in paragraph (5), is discharged or released therefrom with an honorable discharge; and

(5) during the one-year period beginning on [the date of the enactment of the Veterans' Benefits Improvements Act of 1996] *October 9, 1996*, makes an irrevocable election to receive benefits under this section in lieu of benefits under chapter 32 of this title, pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Transportation shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy, may elect to become entitled to basic educational assistance under this chapter.

(b) \* \* \*

\* \* \* \* \*

**CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS**

**Subchapter I—State Approving Agencies**

\* \* \* \* \*

**§ 3680A. Disapproval of enrollment in certain courses**

(a) The Secretary shall not approve the enrollment of an eligible veteran in—

(1) \* \* \*

\* \* \* \* \*

(4) any independent study program except an accredited independent study program (*including open circuit television*) leading to a standard college degree.

(b) \* \* \*

\* \* \* \* \*

(g) Notwithstanding [subsections (e) and (f)] *subsections (e) and (f)(1)*, the Secretary may approve the enrollment of an eligible veteran in a course approved under this chapter if the course is offered by an educational institution under contract with the Department of Defense or the Department of Transportation and is given on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve.

\* \* \* \* \*

**CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS**

**Subchapter I—General**

Sec. 3701. \* \* \*

\* \* \* \* \*

**Subchapter III—Administrative Provisions**

3720. \* \* \*

\* \* \* \* \*

[3722. REPEALED.]  
[3723. Direct loan revolving fund.]  
[3724. Loan Guaranty Revolving Fund.]  
[3725. Guaranty and Indemnity Fund.]  
3722. *Veterans Housing Benefits Programs Fund.*  
3726. \* \* \*

\* \* \* \* \*

3734. Annual submission of information on [the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund] *the Veterans Housing Benefits Programs Fund.*

3735. \* \* \*

\* \* \* \* \*

**§ 3711. Direct loans to veterans**

(a) \* \* \*

\* \* \* \* \*

(k) Without regard to any other provision of this chapter, the Secretary may take or cause to be taken such action as in the Secretary's judgment may be necessary or appropriate for or in connection with the custody, management, protection, and realization or sale of investments under this section, may determine the Secretary's necessary expenses and expenditures, and the manner in which the same shall be incurred, allowed and paid, may make such rules, regulations, and orders as the Secretary may deem necessary or appropriate for carrying out the Secretary's functions under this section [and section 3723 of this title] and, except as otherwise expressly provided in this chapter, may employ, utilize, compensate, and, to the extent not inconsistent with the Secretary's basic responsibilities under this chapter, delegate any of the Secretary's functions under this section [and section 3723 of this title] to such persons and such corporate or other agencies, including agencies of the United States, as the Secretary may designate.

### Subchapter III—Administrative Procedures

#### § 3720. Powers of Secretary

(a) \* \* \*

\* \* \* \* \*

(e)(1) \* \* \*

(2) The Secretary shall [proportionately allocate and deposit the entire proceeds received from the sale of participations into the funds established pursuant to sections 3723 and 3724 of this chapter, as determined on an estimated basis,] *deposit the entire proceeds received from the sale of participations under this subsection into the Veterans Housing Benefits Programs Fund established by section 3722 of this title* and the amounts so deposited shall be available for the purposes of [the funds] *the fund*. The Secretary may nevertheless make such allocations of that part of the proceeds of participation sales representing anticipated interest collections on mortgage loans, including installment sale contracts, on other than an estimated proportionate basis if determined necessary to assure payment of interest on advances theretofore made to the Secretary by the Secretary of the Treasury for direct loan purposes. The Secretary shall set aside and maintain necessary reserves [in the funds established pursuant to sections 3723 and 3724 of this chapter] *the Veterans Housing Benefits Programs Fund* to be used for meeting commitments pursuant to this subsection and, as the Secretary determines to be necessary, for meeting interest payments on advances by the Secretary of the Treasury for direct loan purposes.

(f) \* \* \*

\* \* \* \* \*

#### § 3722. Veterans Housing Benefits Programs Fund

(a) *There is established on the books of the Treasury of the United States a fund to be known as the Veterans Housing Benefits Programs Fund (in this section referred to as the 'Fund').*

(b) *There shall be deposited in the Fund the following:*

(1) *Any unobligated funds as of October 1, 1997, in the direct loan revolving fund under section 3723 of this title.*

(2) *Any unobligated funds as of October 1, 1997, in the Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 3724 of this title.*

(3) *Any unobligated funds as of October 1, 1997, in the Guaranty and Indemnity Fund established by section 3725 of this title.*

(4) *Any amounts appropriated to the Fund.*

(5) *Any fees collected by the Secretary after September 30, 1997, under section 3729 of this title, or under any other provision of law or regulation prescribed by the Secretary that imposes fees on persons participating in any housing loan program under subchapter I, II, or III of this chapter.*

(6) *Any other amounts collected or received by the Secretary after September 30, 1997, as a result of activities under the housing loan programs under subchapter I, II, or III of this chapter, including—*

(A) collections of principal and interest on housing loans made by the Secretary under such programs;

(B) proceeds from the sale, rental, use, or other disposition of property acquired under such programs;

(C) proceeds from the sale of loans under section 3720(h) or 3733(a)(3) of this title; and

(D) penalties collected under section 3710(g)(4)(B) of this title.

(d) Subject to the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), amounts in the Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations and housing loan guaranty and insurance operations under subchapter I, II, or III of this chapter.

\* \* \* \* \*

**§ 3733. Property management**

(a)(1) \* \* \*

\* \* \* \* \*

(6) The Secretary shall make a loan to finance the sale of real property described in paragraph (1) of this subsection at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Secretary determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of [the Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 3724(a)] *the Veterans Housing Benefits Programs Fund established by section 3722 of this title.*

(b) \* \* \*

\* \* \* \* \*

**§ 3734. Annual submission of information on the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund**

(a) In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary submits to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Secretary shall include—

(1) a description of the operations of [the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund] *the Veterans Housing Benefits Programs Fund* during the fiscal year preceding the fiscal year in which such budget is submitted; and

(2) \* \* \*

\* \* \* \* \*

**§ 3735. Housing assistance for homeless veterans**

(a)(1) \* \* \*

\* \* \* \* \*

(3) The Secretary may enter into an agreement under paragraph (1) of this subsection only if—

(A) the Secretary determines that such an action will not adversely affect the ability of the Department—

(i) to fulfill its statutory missions with respect to the Department loan guaranty program and the short- and long-term solvency of [the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund] *the Veterans Housing Benefits Programs Fund* under this chapter; or

(ii) \* \* \*

\* \* \* \* \*

**CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS**

Sec. 5301. \* \* \*

\* \* \* \* \*

5304A. *Recoupment of special separation benefits from compensation: limitation.*

\* \* \* \* \*

**§5304A. Recoupment of special separation benefits from compensation: limitation**

*In the case of a veteran with a service-connected disability who is entitled to compensation and who is paid special separation benefits under section 1174a of title 10, the amount of compensation otherwise payable to that veteran that is deducted pursuant to section 1174a(g) of title 10 by reason of the payment to that veteran of such benefits may not exceed 75 percent of the total amount of the benefits paid to the veteran.*

\* \* \* \* \*

**§ 5310. Payment of benefits for month of death**

(a) \* \* \*

(b)(1) \* \* \*

(2) If (notwithstanding section 5112(b)(1) of this title) a check or other payment is issued to, and in the name of, the deceased veteran as a benefit payment under chapter 11 or 15 of this title for the month in which death occurs, that check or other payment (A) shall be treated for all purposes as being payable to the surviving spouse, and (B) if that check or other payment is negotiated or deposited, shall be considered to be the benefit to which the surviving spouse is entitled [under this paragraph] *under paragraph (1)*. However, if such check or other payment is in an amount less than the amount of the benefit under paragraph (1), the unpaid amount shall be treated in the same manner as an accrued benefit under section 5121 of this title.

\* \* \* \* \*

**CHAPTER 77—VETERANS BENEFITS ADMINISTRATION**

**Subchapter I—Organization; General**

Sec. 7701. \* \* \*

\* \* \* \* \*

7704. Reimbursement for compensation and pension medical examinations.

\* \* \* \* \*

**Subchapter I—Organization; General**

\* \* \* \* \*

**§ 7703. Functions of the Administration**

\* \* \* \* \*

**§ 7704. Reimbursement for compensation and pension medical examinations**

(a) REIMBURSEMENT.—The Under Secretary for Benefits may reimburse the Under Secretary for Health for costs incurred by the Under Secretary of Health for the conduct of medical examinations requested by the Under Secretary for Benefits in connection with claims for benefits under this title.

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

\* \* \* \* \*

**CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY**

\* \* \* \* \*

**Subchapter IV—Sharing of Medical Facilities, Equipment, and Information**

\* \* \* \* \*

**§ 8153. Sharing of health-care resources**

(a)(1) \* \* \*

\* \* \* \* \*

(3)(A) If the health-care resource required is a commercial service, the use of medical equipment or space, or research, and is to be acquired from an institution affiliated with the Department in accordance with section 7302 of this title, including medical practice groups and other entities associated with affiliated institutions, blood banks, organ banks, or research centers, the Secretary may make arrangements for acquisition of the resource without regard to any law or regulation (including any Executive order, circular, or other administrative policy) that would otherwise require the use of competitive procedures for acquiring the resource.

(B)(i) \* \* \*

(ii) The Secretary, in consultation with the Administrator for Federal Procurement Policy, may prescribe simplified procedures for the procurement of health-care resources under this subparagraph. The Secretary shall publish such procedures for public comment in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b). Such procedures shall permit all responsible sources, as appropriate, to submit a bid, proposal,



or quotation (as appropriate) for the resources to be procured and provide for the consideration by the Department of bids, proposals, or quotations so submitted.

\* \* \* \* \*

(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

【(1) that veterans will receive priority under such an arrangement; and】

*(I) that care to veterans will not be diminished as a result of such an arrangement; and*

\* \* \* \* \*

