

105TH CONGRESS
2^D SESSION

H. R. 4110

IN THE SENATE OF THE UNITED STATES

AUGUST 31, 1998

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

To provide a cost-of-living adjustment in rates of compensation paid to veterans with service-connected disabilities, to make various improvements in education, housing, and cemetery programs of the Department of Veterans Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Veterans Benefits Improvement Act of 1998”.

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

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

TITLE I—COMPENSATION COST-OF-LIVING ADJUSTMENT

- Sec. 101. Increase in rates of disability compensation and dependency and indemnity compensation.

TITLE II—EDUCATION BENEFITS

- Sec. 201. Calculation of reporting fee based on total veteran enrollment during a calendar year.
- Sec. 202. Election of advance payment of work-study allowance.
- Sec. 203. Alternative to twelve semester hour equivalency requirement.
- Sec. 204. Medical evidence for flight training requirements.
- Sec. 205. Waiver of wage increase and minimum payment rate requirements for government job training program approval.
- Sec. 206. Expansion of education outreach services.
- Sec. 207. Information on minimum requirements for education benefits for members of the Armed Forces discharged early from duty for the convenience of the Government.

TITLE III—COURT OF VETERANS APPEALS

Subtitle A—Administrative Provisions Relating to the Court

- Sec. 301. Continuation in office of judges pending confirmation for second term.
- Sec. 302. Authority to prescribe rules and regulations.

Subtitle B—Retirement-Related Provisions

- Sec. 311. Recall of retired judges.
- Sec. 312. Calculation of years of service as a judge.
- Sec. 313. Judges’ retired pay.
- Sec. 314. Exemption of retirement fund from sequestration orders.
- Sec. 315. Limitation on activities of retired judges.
- Sec. 316. Early retirement authority for current judges in order to provide for staggered terms of judges.
- Sec. 317. Adjustments for survivor annuities.
- Sec. 318. Reports on retirement program modifications.

Subtitle C—Renaming of Court

- Sec. 321. Renaming of the Court of Veterans Appeals.
 Sec. 322. Conforming amendments.
 Sec. 323. Effective Date.

TITLE IV—OTHER MATTERS

- Sec. 401. Applicability of procurement law to certain contracts of Department of Veterans Affairs.
 Sec. 402. Permanent eligibility of members of Selected Reserve for veterans housing loans.
 Sec. 403. Furnishing of burial flags for deceased members and former members of the Selected Reserve.
 Sec. 404. State cemetery grants program.
 Sec. 405. Disabled Veterans Outreach Program specialists.
 Sec. 406. Permanent authority to use for operating expenses of Department of Veterans Affairs medical facilities amounts available by reason of the limitation on pension for veterans receiving nursing home care.
 Sec. 407. Members of the Board of Veterans' Appeals.
 Sec. 408. National Service Life Insurance program.
 Sec. 409. Technical amendments.

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

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

7 **TITLE I—COMPENSATION COST-**
 8 **OF-LIVING ADJUSTMENT**

9 **SEC. 101. INCREASE IN RATES OF DISABILITY COMPENSA-**
 10 **TION AND DEPENDENCY AND INDEMNITY**
 11 **COMPENSATION.**

12 (a) **RATE ADJUSTMENT.**—The Secretary of Veterans
 13 Affairs shall, effective on December 1, 1998, increase the
 14 dollar amounts in effect for the payment of disability com-

1 pension and dependency and indemnity compensation by
2 the Secretary, as specified in subsection (b).

3 (b) AMOUNTS TO BE INCREASED.—The dollar
4 amounts to be increased pursuant to subsection (a) are
5 the following:

6 (1) COMPENSATION.—Each of the dollar
7 amounts in effect under section 1114 of title 38,
8 United States Code.

9 (2) ADDITIONAL COMPENSATION FOR DEPEND-
10 ENTS.—Each of the dollar amounts in effect under
11 sections 1115(1) of such title.

12 (3) CLOTHING ALLOWANCE.—The dollar
13 amount in effect under section 1162 of such title.

14 (4) NEW DIC RATES.—The dollar amounts in
15 effect under paragraphs (1) and (2) of section
16 1311(a) of such title.

17 (5) OLD DIC RATES.—Each of the dollar
18 amounts in effect under section 1311(a)(3) of such
19 title.

20 (6) ADDITIONAL DIC FOR DISABILITY.—The
21 dollar amounts in effect under sections 1311(c) and
22 1311(d) of such title.

23 (7) DIC FOR DEPENDENT CHILDREN.—The
24 dollar amounts in effect under sections 1313(a) and
25 1314 of such title.

1 (c) DETERMINATION OF INCREASE.—(1) The in-
2 crease under subsection (a) shall be made in the dollar
3 amounts specified in subsection (b) as in effect on Novem-
4 ber 30, 1998.

5 (2) Except as provided in paragraph (3), each such
6 amount shall be increased by the same percentage as the
7 percentage by which benefit amounts payable under title
8 II of the Social Security Act (42 U.S.C. 401 et seq.) are
9 increased effective December 1, 1998, as a result of a de-
10 termination under section 215(i) of such Act (42 U.S.C.
11 415(i)).

12 (3) Each dollar amount increased pursuant to para-
13 graph (2) shall, if not a whole dollar amount, be rounded
14 down to the next lower whole dollar amount.

15 (d) SPECIAL RULE.—The Secretary may adjust ad-
16 ministratively, consistent with the increases made under
17 subsection (a), the rates of disability compensation pay-
18 able to persons within the purview of section 10 of Public
19 Law 85–857 (72 Stat. 1263) who are not in receipt of
20 compensation payable pursuant to chapter 11 of title 38,
21 United States Code.

22 (e) PUBLICATION OF ADJUSTED RATES.—At the
23 same time as the matters specified in section 215(i)(2)(D)
24 of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are
25 required to be published by reason of a determination

1 made under section 215(i) of such Act during fiscal year
2 1998, the Secretary of Veterans Affairs shall publish in
3 the Federal Register the amounts specified in subsection
4 (b), as increased pursuant to subsection (a).

5 **TITLE II—EDUCATION BENEFITS**

6 **SEC. 201. CALCULATION OF REPORTING FEE BASED ON** 7 **TOTAL VETERAN ENROLLMENT DURING A** 8 **CALENDAR YEAR.**

9 (a) IN GENERAL.—The second sentence of section
10 3684(c) is amended by striking “, on October 31” and
11 all that follows through the period and inserting “during
12 the calender year.”.

13 (b) FUNDING.—Section 3684(c), as amended by sub-
14 section (a), is further amended by adding at the end the
15 following new sentence: “The reporting fee payable under
16 this subsection shall be paid from amounts appropriated
17 for readjustment benefits.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to calendar years be-
20 ginning after December 31, 1998.

21 **SEC. 202. ELECTION OF ADVANCE PAYMENT OF WORK-** 22 **STUDY ALLOWANCE.**

23 (a) IN GENERAL.—The third sentence of section
24 3485(a)(1) is amended by striking “An individual shall be
25 paid in advance” and inserting “An individual may elect,

1 in a manner prescribed by the Secretary, to be paid in
2 advance”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall apply with respect to agreements en-
5 tered into under section 3485 of title 38, United States
6 Code, on or after January 1, 1999.

7 **SEC. 203. ALTERNATIVE TO TWELVE SEMESTER HOUR**
8 **EQUIVALENCY REQUIREMENT.**

9 (a) **IN GENERAL.**—The following sections of chapter
10 30 are each amended by striking “successfully completed”
11 each place it appears and inserting “successfully com-
12 pleted (or otherwise received academic credit for)”: sec-
13 tions 3011(a)(2), 3012(a)(2), 3018(b)(4)(ii),
14 3018A(a)(2), 3018B(a)(1)(B), 3018B(a)(2)(B), and
15 3018C(a)(3).

16 (b) **EFFECTIVE DATE.**—The amendments made by
17 subsection (a) shall take effect on October 1, 1998.

18 **SEC. 204. MEDICAL EVIDENCE FOR FLIGHT TRAINING RE-**
19 **QUIREMENTS.**

20 (a) **TITLE 38, UNITED STATES CODE.**—Sections
21 3034(d)(2) and 3241(b)(2) are each amended—

22 (1) by striking “pilot’s license” each place it ap-
23 pears and inserting “pilot certificate”; and

24 (2) by inserting “, on the day the individual be-
25 gins a course of flight training,” after “meets”.

1 (b) TITLE 10, UNITED STATES CODE.—Section
2 16132(c)(1) of title 10, United States Code, is amended—

3 (1) by striking “pilot’s license” each place it ap-
4 pears and inserting “pilot certificate”; and

5 (2) by inserting “, on the day the individual be-
6 gins a course of flight training,” after “meets”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to courses of flight
9 training beginning on or after October 1, 1998.

10 **SEC. 205. WAIVER OF WAGE INCREASE AND MINIMUM PAY-**

11 **MENT RATE REQUIREMENTS FOR GOVERN-**

12 **MENT JOB TRAINING PROGRAM APPROVAL.**

13 (a) IN GENERAL.—Section 3677(b) is amended—

14 (1) by inserting “(1)” after “(b)”;

15 (2) by redesignating paragraphs (1) and (2) as
16 subparagraphs (A) and (B) respectively;

17 (3) in subparagraph (A), as so redesignated, by
18 striking “(A)” and “(B)” and inserting “(i)” and
19 “(ii)” respectively; and

20 (4) by adding at the end the following new
21 paragraph:

22 “(2) The requirement under paragraph (1)(A)(ii)
23 shall not apply with respect to a training establishment
24 operated by the United States or by a State or local gov-
25 ernment.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply with respect to approval of pro-
3 grams of training on the job under section 3677 of title
4 38, United States Code, on or after October 1, 1998.

5 **SEC. 206. EXPANSION OF EDUCATION OUTREACH SERV-**
6 **ICES.**

7 (a) EXPANSION OF EDUCATION OUTREACH SERV-
8 ICES TO MEMBERS OF THE ARMED FORCES.—Section
9 3034 is amended by adding at the end the following new
10 subsection:

11 “(e)(1) In the case of a member of the Armed Forces
12 who participates in basic educational assistance under this
13 chapter, the Secretary shall furnish the information de-
14 scribed in paragraph (2) to each such member, as soon
15 as practicable after the basic pay of the member has been
16 reduced by \$1,200 in accordance with sections 3011(b)
17 and 3102(c) of this title. The Secretary shall furnish such
18 information to each such member at such additional times
19 as the Secretary determines appropriate.

20 “(2) The information referred to in paragraph (1) is
21 information with respect to the benefits, limitations, pro-
22 cedures, eligibility requirements (including time-in-service
23 requirements), and other important aspects of the basic
24 educational assistance program under this chapter, includ-

1 ing application forms for such basic educational assistance
2 under section 5102 of this title.

3 “(3) The Secretary shall furnish the forms described
4 in paragraph (2) and other educational materials to edu-
5 cational institutions, training establishments, and military
6 education personnel, as the Secretary determines appro-
7 priate.

8 “(4) The Secretary shall use amounts appropriated
9 for readjustment benefits to carry out this subsection and
10 section 5102 of this title with respect to application forms
11 under that section for basic educational assistance under
12 this chapter.”.

13 (b) CONFORMING AMENDMENT.—Section 7722(c) is
14 amended by striking “The Secretary” and inserting “Ex-
15 cept as provided in section 3034(e) of this title, the Sec-
16 retary”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect 180 days after the date of
19 the enactment of this Act.

1 **SEC. 207. INFORMATION ON MINIMUM REQUIREMENTS FOR**
2 **EDUCATION BENEFITS FOR MEMBERS OF**
3 **THE ARMED FORCES DISCHARGED EARLY**
4 **FROM DUTY FOR THE CONVENIENCE OF THE**
5 **GOVERNMENT.**

6 (a) **ACTIVE DUTY PROGRAM.**—Section 3011 is
7 amended by adding at the end the following new sub-
8 section:

9 “(i) The Secretary concerned shall inform any mem-
10 ber of the Armed Forces, who has not completed that
11 member’s initial obligated period of active duty (as de-
12 scribed in subsection (a)(1)(A)) and who indicates the in-
13 tent to be discharged or released from such duty for the
14 convenience of the Government, of the minimum active
15 duty requirements for entitlement to educational assist-
16 ance benefits under this chapter. Such information shall
17 be provided to the member in a timely manner.”.

18 (b) **RESERVE PROGRAM.**—Section 3012 is amended
19 by adding at the end the following new subsection:

20 “(g)(1) The Secretary concerned shall inform any
21 member of the Armed Forces, who has not completed that
22 member’s initial service (as described in paragraph (2))
23 and who indicates the intent to be discharged or released
24 from such service for the convenience of the Government,
25 of the minimum service requirements for entitlement to
26 educational assistance benefits under this chapter. Such

1 information shall be provided to the member in a timely
2 manner.

3 “(2) The initial service referred to in paragraph (1)
4 is the initial obligated period of active duty (described in
5 subparagraphs (A)(i) or (B)(i) of subsection (a)(1)) or the
6 period of service in the Selected Reserve (described in sub-
7 paragraphs (A)(ii) or (B)(ii) of subsection (a)(1)).”.

8 (c) REPORT TO CONGRESS.—Section 3036(b)(1) is
9 amended—

10 (1) by striking “and (B)” and inserting “(B)”;

11 and

12 (2) by inserting before the semicolon the follow-
13 ing: “, and (C) describing the efforts under sections
14 3011(i) and 3012(g) of this title to inform members
15 of the Armed Forces of the minimum service re-
16 quirements for entitlement to educational assistance
17 benefits under this chapter and the results from
18 such efforts”.

19 (d) EFFECTIVE DATES.—(1) The amendments made
20 by subsections (a) and (b) shall take effect 120 days after
21 the date of the enactment of this Act.

22 (2) The amendments made by subsection (c) shall
23 apply with respect to reports to Congress submitted by
24 the Secretary of Defense under section 3036 of title 38,
25 United States Code, on or after January 1, 2000.

1 **TITLE III—COURT OF VETERANS**
2 **APPEALS**

3 **Subtitle A—Administrative**
4 **Provisions Relating to the Court**

5 **SEC. 301. CONTINUATION IN OFFICE OF JUDGES PENDING**
6 **CONFIRMATION FOR SECOND TERM.**

7 Section 7253(c) is amended by adding at the end the
8 following new sentence: “A judge who is nominated by the
9 President for appointment to an additional term on the
10 Court without a break in service and whose term of office
11 expires while that nomination is pending before the Senate
12 may continue in office for up to one year while that nomi-
13 nation is pending.”.

14 **SEC. 302. AUTHORITY TO PRESCRIBE RULES AND REGULA-**
15 **TIONS.**

16 Section 7254 is amended by adding at the end the
17 following new subsection:

18 “(f) The Court may prescribe rules and regulations
19 to carry out this chapter.”.

20 **Subtitle B—Retirement-Related**
21 **Provisions**

22 **SEC. 311. RECALL OF RETIRED JUDGES.**

23 (a) **AUTHORITY TO RECALL RETIRED JUDGES.—**
24 Chapter 72 is amended by inserting after section 7256 the
25 following new section:

1 **“§ 7257. Recall of retired judges**

2 “(a)(1) A retired judge of the Court may be recalled
3 for further service on the Court in accordance with this
4 section. To be eligible to be recalled for such service, a
5 retired judge must at the time of the judge’s retirement
6 provide to the chief judge of the Court (or, in the case
7 of the chief judge, to the clerk of the Court) notice in writ-
8 ing that the retired judge is available for further service
9 on the Court in accordance with this section and is willing
10 to be recalled under this section. Such a notice provided
11 by a retired judge is irrevocable.

12 “(2) For the purposes of this section—

13 “(A) a retired judge is a judge of the Court of
14 Veterans Appeals who retires from the Court under
15 section 7296 of this title or under chapter 83 or 84
16 of title 5, United States Code; and

17 “(B) a recall-eligible retired judge is a retired
18 judge who has provided a notice under paragraph
19 (1).

20 “(b)(1) The chief judge may recall for further service
21 on the court a recall-eligible retired judge in accordance
22 with this section. Such a recall shall be made upon written
23 certification by the chief judge that substantial service is
24 expected to be performed by the retired judge for such
25 period, not to exceed 90 days (or the equivalent), as deter-

1 mined by the chief judge to be necessary to meet the needs
2 of the Court.

3 “(2) A recall-eligible retired judge may not be re-
4 called for more than 90 days (or the equivalent) during
5 any calendar year without the judge’s consent or for more
6 than a total of 180 days (or the equivalent) during any
7 calendar year.

8 “(3) If a recall-eligible retired judge is recalled by the
9 chief judge in accordance with this section and (other than
10 in the case of a judge who has previously during that cal-
11 endar year served at least 90 days (or the equivalent) of
12 recalled service on the court) declines (other than by rea-
13 son of disability) to perform the service to which recalled,
14 the chief judge shall remove that retired judge from the
15 status of a recall-eligible judge.

16 “(4) A recall-eligible retired judge who becomes per-
17 manently disabled and as a result of that disability is un-
18 able to perform further service on the court shall be re-
19 moved from the status of a recall-eligible judge. Deter-
20 mination of such a disability shall be made in the same
21 manner as is applicable to judges of the United States
22 under section 371 of title 28, United States Code.

23 “(c) A retired judge who is recalled under this section
24 may exercise all of the powers and duties of the office of
25 a judge in active service.

1 “(d)(1) The pay of a recall-eligible retired judge who
2 retired under section 7296 of this title is specified in sub-
3 section (c) of that section.

4 “(2) A judge who is recalled under this section who
5 retired under chapter 83 or 84 of title 5, United States
6 Code, shall be paid, during the period for which the judge
7 serves in recall status, pay at the rate of pay in effect
8 under section 7253(e) of this title for a judge performing
9 active service, less the amount of the judge’s annuity
10 under the applicable provisions of chapter 83 or 84 of title
11 5, United States Code.

12 “(e)(1) Except as provided in subsection (d), a judge
13 who is recalled under this section who retired under chap-
14 ter 83 or 84 of title 5, United States Code, shall be consid-
15 ered to be a reemployed annuitant under that chapter.

16 “(2) Nothing in this section affects the right of a
17 judge who retired under chapter 83 or 84 of title 5, United
18 States Code, to serve as a reemployed annuitant in accord-
19 ance with the provisions of title 5, United States Code.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of chapter 72 is amended by inserting
22 after the item relating to section 7256 the following new
23 item:

“7257. Recall of retired judges.”.

1 **SEC. 312. CALCULATION OF YEARS OF SERVICE AS A**
2 **JUDGE.**

3 Section 7296(b) is amended by adding at the end the
4 following new paragraph:

5 “(4) For purposes of calculating the years of service
6 of an individual under this subsection and subsection (c),
7 only those years of service as a judge of the Court shall
8 be credited. In determining the number of years of such
9 service, that portion of the aggregate number of years of
10 such service that is a fractional part of one year shall be
11 disregarded if less than 183 days and shall be credited
12 as a full year if 183 days or more.”.

13 **SEC. 313. JUDGES’ RETIRED PAY.**

14 (a) IN GENERAL.—Subsection (c)(1) of section 7296
15 is amended by striking “at the rate of pay in effect at
16 the time of retirement.” and inserting the following:
17 “as follows:

18 “(A) In the case of a judge who is a recall-eli-
19 ble retired judge under section 7257 of this title or
20 who was a recall-eligible retired judge under that
21 section and was removed from recall status under
22 subsection (b)(4) of that section by reason of disabil-
23 ity, the retired pay of the judge shall be the pay of
24 a judge of the court (or of the chief judge, if the in-
25 dividual retired from service as chief judge).

1 “(B) In the case of a judge who at the time of
2 retirement did not provide notice under section 7257
3 of this title of availability for service in a recalled
4 status, the retired pay of the judge shall be the rate
5 of pay applicable to that judge at the time of retire-
6 ment.

7 “(C) In the case of a judge who was a recall-
8 eligible retired judge under section 7257 of this title
9 and was removed from recall status under subsection
10 (b)(3) of that section, the retired pay of the judge
11 shall be the pay of the judge at the time of the re-
12 moval from recall status.”.

13 (b) COST-OF-LIVING ADJUSTMENTS.—Subsection (f)
14 of such section is amended by adding at the end the follow-
15 ing new paragraph:

16 “(3)(A) A cost-of-living adjustment provided by law
17 in annuities payable under civil service retirement laws
18 shall apply to retired pay under this section only in the
19 case of retired pay computed under paragraph (2) of sub-
20 section (c).

21 “(B)(i) If such a cost-of-living adjustment would (but
22 for this subparagraph) result in the retired pay of a re-
23 tired chief judge being in excess of the annual rate of pay
24 in effect for the chief judge of the court as provided in
25 section 7253(e)(1) of this title, such adjustment may be

1 made in the retired pay of that retired chief judge only
2 in such amount as results in the retired pay of the retired
3 chief judge being equal to that annual rate of pay (as in
4 effect on the effective date of such adjustment).

5 “(ii) If such a cost-of-living adjustment would (but
6 for this subparagraph) result in the retired pay of a re-
7 tired judge (other than a retired chief judge) being in ex-
8 cess of the annual rate of pay in effect for judges of the
9 court as provided in section 7253(e)(2) of this title, such
10 adjustment may be made only in such amount as results
11 in the retired pay of the retired judge being equal to that
12 annual rate of pay (as in effect on the effective date of
13 such adjustment).”.

14 (c) COORDINATION WITH MILITARY RETIRED
15 PAY.—Subsection (f) of such section, as amended by sub-
16 section (b), is further amended by adding at the end the
17 following new paragraph:

18 “(4) Notwithstanding subsection (c) of section 5532
19 of title 5, United States Code, if a regular or reserve mem-
20 ber of a uniformed service who is receiving retired or re-
21 tainer pay becomes a judge of the court, or becomes eligi-
22 ble therefor while a judge of the court, such retired or
23 retainer pay shall not be paid during the judge’s regular
24 active service on the court, but shall be resumed or com-
25 menced without reduction upon retirement as a judge.”.

1 **SEC. 314. EXEMPTION OF RETIREMENT FUND FROM SE-**
2 **QUESTRATION ORDERS.**

3 Section 7298 is amended by adding at the end the
4 following new subsection:

5 “(g) For purpose of section 255(g)(1)(B) of the Bal-
6 anced Budget and Emergency Deficit Control Act of 1985
7 (2 U.S.C. 905(g)(1)(B)), the retirement fund shall be
8 treated in the same manner as the Claims Judges’ Retire-
9 ment Fund.”.

10 **SEC. 315. LIMITATION ON ACTIVITIES OF RETIRED JUDGES.**

11 (a) IN GENERAL.—Chapter 72 is amended by adding
12 at the end the following new section:

13 **“§ 7299. Limitation on activities of retired judges**

14 “If a retired judge of the Court in the practice of
15 law represents (or supervises or directs the representation
16 of) a client in making any claim relating to veterans’ bene-
17 fits against the United States or any agency thereof, the
18 retired judge shall forfeit all rights to retired pay under
19 section 7296 of this title or under chapter 83 or 84 of
20 title 5, United States Code, for the period beginning on
21 the date on which the representation begins and ending
22 one year after the date on which the representation ends.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 72 is amended by adding at
25 the end the following new item:

“7299. Limitation on activities of retired judges.”.

1 **SEC. 316. EARLY RETIREMENT AUTHORITY FOR CURRENT**
2 **JUDGES IN ORDER TO PROVIDE FOR STAG-**
3 **GERED TERMS OF JUDGES.**

4 (a) **RETIREMENT AUTHORIZED.**—One eligible judge
5 may retire in accordance with this section each year begin-
6 ning in 1999 and ending in 2003.

7 (b) **ELIGIBLE JUDGES.**—For purposes of this section,
8 an eligible judge is an associate judge of the United States
9 Court of Appeals for Veterans Claims who—

10 (1) has at least 10 years of service creditable
11 under section 7296 of title 38, United States Code;

12 (2) has made an election to receive retired pay
13 under section 7296 of such title;

14 (3) has at least 20 years of service described in
15 section 7297(l) of such title; and

16 (4) is at least 55 years of age.

17 (c) **MULTIPLE ELIGIBLE JUDGES.**—If for any year
18 specified in subsection (a) more than one eligible judge
19 provides notice in accordance with subsection (d), the
20 judge who has the greatest seniority as a judge of the
21 United States Court of Appeals for Veterans Claims shall
22 be the judge who is eligible to retire in accordance with
23 this section in that year.

24 (d) **NOTICE.**—An eligible judge who desires to retire
25 in accordance with this section in any year specified in
26 subsection (a) shall provide to the President and the chief

1 judge of the United States Court of Appeals for Veterans
2 Claims written notice to that effect not later than April
3 1 of that year. Such a notice shall specify the retirement
4 date in accordance with subsection (f). Notice provided
5 under this subsection shall be irrevocable.

6 (e) RETIREMENT.—A judge who is eligible to retire
7 in accordance with this section shall be retired during the
8 fiscal year in which notice is provided pursuant to sub-
9 section (d), but not earlier than 90 days after the date
10 on which such notice is provided. Except as provided in
11 subsection (f), such judge shall be considered for all pur-
12 poses to be retired under section 7296(b)(1) of title 38,
13 United States Code.

14 (f) RATE OF RETIRED PAY.—The rate of retired pay
15 for a judge retiring under this section is—

16 (1) the rate applicable to that judge under sec-
17 tion 7296(c)(1) of title 38, United States Code, mul-
18 tiplied by

19 (2) the fraction (not in excess of 1) in which—

20 (A) the numerator is the sum of: (i) the
21 number of years of service of the judge as a
22 judge of the United States Court of Appeals for
23 Veterans Claims creditable under section 7296
24 of such title; and (ii) the age of the judge; and

25 (B) the denominator is 80.

1 (g) ADJUSTMENTS IN RETIRED PAY FOR JUDGES
2 AVAILABLE FOR RECALL.—Subject to section
3 7296(f)(3)(B) of title 38, United States Code, an adjust-
4 ment provided by law in annuities payable under civil serv-
5 ice retirement laws shall apply to retired pay under this
6 section in the case of a judge who is a recall-eligible retired
7 judge under section 7257 of title 38, United States Code,
8 or who was a recall-eligible retired judge under that sec-
9 tion and was removed from recall status under subsection
10 (b)(4) of that section by reason of disability.

11 (h) DUTY OF ACTUARY.—Section 7298(e)(2) is
12 amended—

13 (1) by redesignating subparagraph (C) as sub-
14 paragraph (D); and

15 (2) by inserting after subparagraph (B) the fol-
16 lowing new subparagraph:

17 “(C) For purposes of subparagraph (B), the term
18 ‘present value’ includes a value determined by an actuary
19 with respect to a payment that may be made under sub-
20 section (b) from the retirement fund within the contempla-
21 tion of law.”.

22 **SEC. 317. ADJUSTMENTS FOR SURVIVOR ANNUITIES.**

23 Subsection (o) of section 7297 is amended to read
24 as follows:

1 “(o) Each survivor annuity payable from the retire-
2 ment fund shall be increased at the same time as, and
3 by the same percentage by which, annuities payable from
4 the Judicial Survivors’ Annuities Fund are increased pur-
5 suant to section 376(m) of title 28, United States Code.”.

6 **SEC. 318. REPORTS ON RETIREMENT PROGRAM MODIFICA-**
7 **TIONS.**

8 (a) **REPORT ON JUDGES’ RETIREMENT SYSTEM.**—
9 Not later than one year after the date of the enactment
10 of this Act, the chief judge of the United States Court
11 of Appeals for Veterans Claims shall submit to the Com-
12 mittees on Veterans’ Affairs of the Senate and House of
13 Representatives a report on the feasibility and desirability
14 of merging the retirement plan of the judges of that court
15 with retirement plans of other Federal judges.

16 (b) **REPORT ON SURVIVOR ANNUITIES PLAN.**—Not
17 later than 6 months after the date of the enactment of
18 this Act, the chief judge of the United States Court of
19 Appeals for Veterans Claims shall submit to the Commit-
20 tees on Veterans’ Affairs of the Senate and House of Rep-
21 resentatives a report on the feasibility and desirability of
22 allowing judges of that court to participate in the survivor
23 annuity programs available to other Federal judges.

1 **Subtitle C—Renaming of Court**

2 **SEC. 321. RENAMING OF THE COURT OF VETERANS AP-** 3 **PEALS.**

4 (a) IN GENERAL.—The United States Court of Vet-
5 erans Appeals is hereby renamed as, and shall hereafter
6 be known and designated as, the United States Court of
7 Appeals for Veterans Claims.

8 (b) SECTION 7251.—Section 7251 is amended by
9 striking “United States Court of Veterans Appeals” and
10 inserting “United States Court of Appeals for Veterans
11 Claims”.

12 **SEC. 322. CONFORMING AMENDMENTS.**

13 (a) CONFORMING AMENDMENTS TO TITLE 38,
14 UNITED STATES CODE.—

15 (1) The following sections are amended by
16 striking “Court of Veterans Appeals” each place it
17 appears and inserting “Court of Appeals for Veter-
18 ans Claims”: sections 5904, 7101(b), 7252(a), 7253,
19 7254, 7255, 7256, 7261, 7262, 7263, 7264,
20 7266(a)(1), 7267(a), 7268(a), 7269, 7281(a),
21 7282(a), 7283, 7284, 7285(a), 7286, 7291, 7292,
22 7296, 7297, and 7298.

23 (2)(A) The heading of section 7286 is amended
24 to read as follows:

1 **“§ 7286. Judicial Conference of the Court”.**

2 (B) The heading of section 7291 is amended to
3 read as follows:

4 **“§ 7291. Date when Court decision becomes final”.**

5 (C) The heading of section 7298 is amended to
6 read as follows:

7 **“§ 7298. Retirement Fund”.**

8 (3) The table of sections at the beginning of
9 chapter 72 is amended as follows:

10 (A) The item relating to section 7286 is
11 amended to read as follows:

“7286. Judicial Conference of the Court.”.

12 (B) The item relating to section 7291 is
13 amended to read as follows:

“7291. Date when Court decision becomes final.”.

14 (C) The item relating to section 7298 is
15 amended to read as follows:

“7298. Retirement Fund.”.

16 (4)(A) The heading of chapter 72 is amended
17 to read as follows:

18 **“CHAPTER 72—UNITED STATES COURT OF**
19 **APPEALS FOR VETERANS CLAIMS”.**

20 (B) The item relating to chapter 72 in the table
21 of chapters at the beginning of title 38, United
22 States Code, and the item relating to such chapter

1 in the table of chapters at the beginning of part V
2 are amended to read as follows:

“72. United States Court of Appeals for Veterans Claims 7251”.

3 (b) CONFORMING AMENDMENTS TO OTHER LAWS.—

4 (1) The following provisions of law are amended
5 by striking “Court of Veterans Appeals” each place
6 it appears and inserting “Court of Appeals for Vet-
7 erans Claims”:

8 (A) Section 8440d of title 5, United States
9 Code.

10 (B) Section 2412 of title 28, United States
11 Code.

12 (C) Section 906 of title 44, United States
13 Code.

14 (D) Section 109 of the Ethics in Govern-
15 ment Act of 1978 (5 U.S.C. App.).

16 (2)(A) The heading of section 8440d of title 5,
17 United States Code, is amended to read as follows:

18 **“§ 8440d. Judges of the United States Court of Ap-
19 peals for Veterans Claims”.**

20 (B) The item relating to such section in the
21 table of sections at the beginning of chapter 84 of
22 such title is amended to read as follows:

“8440d. Judges of the United States Court of Appeals for Veterans Claims.”.

23 (c) OTHER LEGAL REFERENCES.—Any reference in
24 a law, regulation, document, paper, or other record of the

1 United States to the United States Court of Veterans Ap-
2 peals shall be deemed to be a reference to the United
3 States Court of Appeals for Veterans Claims.

4 **SEC. 323. EFFECTIVE DATE.**

5 This subtitle, and the amendments made by this sub-
6 title, shall take effect on the first day of the first month
7 beginning more than 90 days after the date of the enact-
8 ment of this Act.

9 **TITLE IV—OTHER MATTERS**

10 **SEC. 401. APPLICABILITY OF PROCUREMENT LAW TO CER-**
11 **TAIN CONTRACTS OF DEPARTMENT OF VET-**
12 **ERANS AFFAIRS.**

13 (a) IN GENERAL.—Section 3720(b) is amended by
14 striking “; however” and all that follows and inserting the
15 following: “, except that title III of the Federal Property
16 and Administrative Services Act of 1949 (41 U.S.C. 251
17 et seq.) shall apply to any contract for services or supplies
18 on account of any property acquired pursuant to this sec-
19 tion.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply with respect to contracts entered
22 into under section 3720 of title 38, United States Code,
23 on or after the date of the enactment of this Act.

1 **SEC. 402. PERMANENT ELIGIBILITY OF MEMBERS OF SE-**
2 **LECTED RESERVE FOR VETERANS HOUSING**
3 **LOANS.**

4 Section 3702(a)(2)(E) is amended by striking “For
5 the period beginning on October 28, 1992, and ending on
6 October 27, 1999, each veteran” and inserting “Each vet-
7 eran”.

8 **SEC. 403. FURNISHING OF BURIAL FLAGS FOR DECEASED**
9 **MEMBERS AND FORMER MEMBERS OF THE**
10 **SELECTED RESERVE.**

11 Section 2301 is amended by adding at the end the
12 following new subsection:

13 “(f)(1) The Secretary shall furnish a flag to drape
14 the casket of each deceased member or former member
15 of the Selected Reserve (as described in section 10143 of
16 title 10, United States Code) who is not otherwise eligible
17 for a flag under this section or section 1482(a) of title
18 10, United States Code—

19 “(A) who completed at least one enlistment as
20 a member of the Selected Reserve or, in the case of
21 an officer, completed the period of initial obligated
22 service as a member of the Selected Reserve;

23 “(B) who was discharged before completion of
24 the person’s initial enlistment as a member of the
25 Selected Reserve or, in the case of an officer, period
26 of initial obligated service as a member of the Se-

1 lected Reserve, for a disability incurred or aggra-
2 vated in line of duty; or

3 “(C) who died while a member of the Selected
4 Reserve.

5 “(2) A flag may not be furnished under subparagraph
6 (A) or (B) of paragraph (1) in the case of a person whose
7 last discharge from service in the Armed Forces was under
8 conditions less favorable than honorable.

9 “(3) After the burial, a flag furnished under para-
10 graph (1) shall be given to the next of kin or to such other
11 person as the Secretary considers appropriate.”.

12 **SEC. 404. STATE CEMETERY GRANTS PROGRAM.**

13 (a) AMOUNT OF GRANT RELATIVE TO PROJECT
14 COST.—(1) Paragraphs (1) and (2) of section 2408(b) are
15 amended to read as follows:

16 “(1) The amount of a grant under this section
17 may not exceed—

18 “(A) in the case of the establishment of a
19 new cemetery, the sum of: (i) the cost of im-
20 provements to be made on the land to be con-
21 verted into a cemetery; and (ii) the cost of ini-
22 tial equipment necessary to operate the ceme-
23 tery; and

24 “(B) in the case of the expansion or im-
25 provement of an existing cemetery, the sum of:

1 (i) the cost of improvements to be made on any
2 land to be added to the cemetery; and (ii) the
3 cost of any improvements to be made to the ex-
4 isting cemetery.

5 “(2) If the amount of a grant under this sec-
6 tion is less than the amount of costs referred to in
7 subparagraph (A) or (B) of paragraph (1), the State
8 receiving the grant shall contribute the excess of
9 such costs over the grant. Costs of land acquired or
10 dedicated by the State for such cemetery shall not
11 be taken into account for purposes of the preceding
12 sentence.”.

13 (2) The amendment made by paragraph (1) shall
14 apply with respect to grants under section 2408 of title
15 38, United States Code, made after the end of the 60-
16 day period beginning on the date of the enactment of this
17 Act.

18 (b) AUTHORIZATION OF APPROPRIATIONS WITHOUT
19 FISCAL YEAR LIMITATION.—The first sentence of section
20 2408(e) is amended by striking “shall remain available
21 until the end of the second fiscal year following the fiscal
22 year for which they are appropriated” and inserting “shall
23 remain available until expended”.

1 (c) EXTENSION OF AUTHORIZATION OF APPROPRIA-
2 TIONS FOR GRANT PROGRAM.—Paragraph (2) of section
3 2408(a) is amended to read as follows:

4 “(2) There is authorized to be appropriated
5 \$10,000,000 for fiscal year 1999 and for each succeeding
6 fiscal year through fiscal year 2004 for the purpose of
7 making grants under paragraph (1).”.

8 **SEC. 405. DISABLED VETERANS OUTREACH PROGRAM SPE-**
9 **CIALISTS.**

10 (a) IN GENERAL.—section 4103A(a)(1) is amend-
11 ed—

12 (1) in the first sentence by striking “for each
13 6,900 veterans residing in such State” through the
14 period and inserting “for each 7,400 veterans who
15 are between the ages of 20 and 64 residing in such
16 State.”;

17 (2) in the third sentence, by striking “of the
18 Vietnam era”; and

19 (3) by striking the fourth sentence.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to appointments of
22 disabled veterans’ outreach program specialists under sec-
23 tion 4103A of title 38, United States Code, on or after
24 the date of the enactment of this Act.

1 **SEC. 406. PERMANENT AUTHORITY TO USE FOR OPERAT-**
 2 **ING EXPENSES OF DEPARTMENT OF VETER-**
 3 **ANS AFFAIRS MEDICAL FACILITIES AMOUNTS**
 4 **AVAILABLE BY REASON OF THE LIMITATION**
 5 **ON PENSION FOR VETERANS RECEIVING**
 6 **NURSING HOME CARE.**

7 (a) IN GENERAL.—Section 5503(a)(1)(B) is amend-
 8 ed by striking “Effective through September 30, 1997,
 9 any” in the second sentence and inserting “Any”.

10 (b) EFFECTIVE DATE.—The amendment made by
 11 subsection (a) shall take effect as of October 1, 1997.

12 **SEC. 407. MEMBERS OF THE BOARD OF VETERANS’ AP-**
 13 **PEALS.**

14 (a) TITLE OF BOARD MEMBERS.—Section 7101(a) is
 15 amended—

16 (1) by inserting “(1)” after “(a)”;

17 (2) by designating the fourth and fifth sen-
 18 tences as paragraph (2); and

19 (3) by adding after the third sentence the fol-
 20 lowing: “Members of the Board (other than the
 21 Chairman) shall also be known as ‘veterans adminis-
 22 trative law judges’.”.

23 (b) REQUIREMENT FOR BOARD MEMBERS TO BE
 24 ATTORNEYS.—Section 7101A(a) is amended—

25 (1) by inserting “(1)” after “(a)”;

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

3 “(2) Each member of the Board shall be a member
4 in good standing of the bar of a State.”.

5 (c) EMPLOYMENT REVERSION RIGHTS.—Paragraph
6 (2) of section 7101A(d) is amended to read as follows:

7 “(2)(A) Upon removal from the Board under para-
8 graph (1) of a member of the Board who before appoint-
9 ment to the Board served as an attorney in the civil serv-
10 ice, the Secretary shall appoint that member to an attor-
11 ney position at the Board, if the removed member so re-
12 quests. If the removed member served in an attorney posi-
13 tion at the Board immediately before appointment to the
14 Board, appointment to an attorney position under this
15 paragraph shall be in the grade and step held by the re-
16 moved member immediately before such appointment to
17 the Board.

18 “(B) The Secretary is not required to make an ap-
19 pointment to an attorney position under this paragraph
20 if the Secretary determines that the member of the Board
21 removed under paragraph (1) is not qualified for the posi-
22 tion.”.

1 **SEC. 408. NATIONAL SERVICE LIFE INSURANCE PROGRAM.**

2 (a) ELIGIBILITY OF CERTAIN VETERANS FOR DIVI-
3 DENDS UNDER VSLI PROGRAM.—Section 1919(b) is
4 amended—

5 (1) by striking “sections 602(c)(2) and” and in-
6 serting “section”; and

7 (2) by striking “sections” after “under such”
8 and inserting “section”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect at the end of the 90-day pe-
11 riod beginning on the date of the enactment of this Act.

12 **SEC. 409. TECHNICAL AMENDMENTS.**

13 (a) REDESIGNATION.—Section 1103, as added by
14 section 8031(a) of the Veterans Reconciliation Act of 1997
15 (title VIII of Public Law 105–33), is redesignated as sec-
16 tion 1104, and the item relating to that section in the
17 table of sections at the beginning of chapter 11 is revised
18 to reflect that redesignation.

19 (b) OTHER CORRECTIONS.—

20 (1) Section 1803(c)(2) is amended by striking
21 “who furnishes health care that the Secretary deter-
22 mines authorized” and inserting “furnishing health
23 care services that the Secretary determines are au-
24 thorized”.

25 (2) Section 3680A(d)(2)(C) is amended by
26 striking “section”.

1 (3) Section 8107(b)(3)(E) is amended by strik-
2 ing “section 7305” and inserting “section
3 7306(f)(1)(A)”.

Passed the House of Representatives August 3,
1998.

Attest:

ROBIN H. CARLE,
Clerk.