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Folder Title: 12/27/2001 [H.R. 1291]

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	Veterans Education and Benefits Expansion - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;
002	Letter	[Views of the Secretary of Veterans Affairs] - To: Mitchell E. Daniels, Jr. - From: Anthony J. Principi	2	12/20/2001	P5;
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- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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Freedom of Information Act - [5 U.S.C. 552(b)]

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Bills Received at the White House

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Date received and
notification to OMB: 12/18/2001
Last day for action: 12/29/2001

H.R.1291

Official Title	
An Act to amend title 38, United States Code, to modify and improve authorities relating to education benefits, compensation and pension benefits, housing benefits, burial benefits, and vocational rehabilitation benefits for veterans, to modify certain authorities relating to the United States Court of Appeals for Veterans Claims, and for other purposes.	499976

signed 12/27/01

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Other Provisions of H.R. 1291

Compensation Benefits to Fugitives and Incarcerated Veterans

H.R. 1291 would prohibit a veteran from receiving VA benefits for the time period during which the veteran is a "fugitive felon." It also would prohibit eligible dependents (spouse, surviving spouse, child, or dependent parent) from receiving VA benefits during the time period that the veteran or the dependent is a fugitive felon. A fugitive felon is defined as a person either: (1) fleeing to avoid prosecution, custody, or confinement after conviction, for an offense or an attempt to commit a felony; or (2) violating a condition of probation or parole. Under current law, a fugitive is generally not subject to the reduction of VA benefits, as is the case with incarcerated veterans.

The enrolled bill would limit VA compensation payments for veterans who, on October 7, 1980, were incarcerated for felonies committed before that date and remain incarcerated for that felony conviction as of the date of the enrolled bill's enactment. Under current law, service-connected disability compensation is reduced for veterans confined in a Federal, State, or local penal institution as a result of a felony conviction. VA advises that the Department recently became aware of approximately 230 veterans who do not fall within the scope of current law, and who are receiving a total of approximately \$2.5 million per year in VA compensation benefits.

Compensation and Pension Provisions

H.R. 1291 would make changes to various VA compensation benefits, including: (1) increasing, from 500 to 2500, the fiscal year limitation on the number of vocational rehabilitation participants in VA's independent living services program, which is designed to assist service-disabled veterans who are too disabled to retrain for employment; (2) increasing, from \$8000 to \$9000, the amount of assistance VA may provide to help certain disabled veterans purchase an automobile; (3) repealing the asset limitation on payment of benefits to incompetent institutionalized veterans who have no dependents; and (4) extending VA's authority, from FY 2002 through FY 2011, to round down to the next lowest whole dollar amount the computation of cost-of-living adjustments for compensation to veterans with service-connected disabilities and survivors of certain disabled veterans.

H.R. 1291 would make changes to veterans' pensions by: (1) extending, from September 30, 2008, through September 30, 2011, the \$90 per month limitation on pensions paid to certain veterans receiving Medicaid-covered nursing home care; (2) expanding the presumptions of permanent and total disability for veterans applying for nonservice-connected pensions; and (3) authorizing pensions to be provided to wartime veterans aged 65 and older without regard to disability, if the veterans meet certain military service requirements and restrictions on income and net worth.

Transition and Outreach

H.R. 1291 would: (1) authorize the VA Secretary to establish veterans' assistance offices on military installations outside of the United States; (2) extend the timing of preseparation counseling for servicemembers leaving military service; (3) require State approving agencies (which approve courses and programs that qualify for certain VA benefits) to actively promote the development of VA on-the-job training programs, as well as conduct outreach programs and provide outreach services to eligible veterans about education and training benefits that are available; and (4) require VA to provide information regarding its benefits and health services to a veteran or dependent within three months of the first application for any VA benefit.

U.S. Court of Appeals for Veterans Claims

H.R. 1291 would make a number of changes to the U.S. Court of Appeals for Veterans Claims (CAVC). The enrolled bill would temporarily expand, until August 2005, the number of CAVC judges from seven to nine to facilitate staggered terms for judges due to the retirements and deaths of some CAVC judges. It also would provide CAVC with the same management, administrative, and expenditure authorities that are available to courts established under Article III of the Constitution. The enrolled bill would allow the CAVC to impose a registration fee on participants at judicial conferences or other Court-sponsored activities.

H.R. 1291 would eliminate: (1) the requirement that a CAVC judge who has not been reappointed following the expiration of his or her appointed term must, as a precondition to retirement, advise the President in writing that he or she is willing to accept reappointment; (2) the jurisdictional limitation on appeals to the CAVC based on the date of filing of a notice of disagreement; and (3) the requirement that a claimant must provide a copy of a CAVC appeal to the VA Secretary.

Technical and Clarifying Amendments

H.R. 1291 would make a number of technical and clarifying amendments, including repealing limitations in current law on the reduction of VA full-time equivalent positions by the VA Secretary.

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VETERANS EDUCATION AND BENEFITS EXPANSION ACT OF 2001

H.R. 1291, 107TH CONGRESS

SECTION-BY-SECTION ANALYSIS

TITLE I -- EDUCATIONAL ASSISTANCE PROVISIONS

SECTION 101. Increase in Rates of Basic Educational Assistance Under Montgomery GI Bill.

Section 101 would amend section 3015 of title 38, United States Code, to increase the monthly rate (for full-time students) of educational assistance under the Montgomery GI Bill – Active Duty (MGIB) for an obligated period of active duty of 3 or more years to \$800, effective January 1, 2002; to \$900, effective, October 1, 2002; and, finally, to \$985, effective October 1, 2003. For a service obligation of 2 years, the monthly assistance rate would be increased to \$650, effective January 1, 2002; to \$732, effective October 1, 2002; and, finally, to \$800 effective October 1, 2003. In view of these specific rate increases, section 101 would also provide that no automatic cost-of-living adjustments, as provided for by section 3015(h) of title 38, United States Code, shall be made during Fiscal Years 2003 and 2004.

SECTION 102. Increase in Rates of Survivors' and Dependents' Educational Assistance.

Section 102 would increase the monthly amount of educational assistance provided under chapter 35 of title 38, United States Code (Survivors' and Dependents' Educational Assistance Program (DEA)), from \$588 to \$670, for full-time students, from \$441 to \$503, for three-quarter time students, and from \$294 to \$335, for half-time students. It would also include increases for on-job training, apprenticeship, and farm cooperative programs. These increases would take effect on January 1, 2002.

SECTION 103. Restoration of Certain Education Benefits of Individuals Being Ordered to Active Duty.

Section 103 would restore entitlement under the MGIB, the Veterans' Educational Assistance Program (VEAP) under chapter 32 of title 38, United States Code, and the DEA program for any servicemembers, reservists, or DEA recipients who had to discontinue course pursuit as a result of being called to active duty under specified authorities during the period designated "Operation Enduring Freedom" and at any time in the future. Section 103 would also provide for entitlement restoration for persons pursuing education or training under chapter 31 of title 38, United States Code. Further, the period during which the person may use his or her educational benefits under chapters 31 or 35 would be extended by a period equal to the length of active service for which such person is recalled, plus four months.

SECTION 104. Accelerated Payments of Educational Assistance Under Montgomery GI Bill for Education Leading to Employment in High Technology Industry.

Section 104 would expand the MGIB to accommodate pursuit of a compressed schedule of high-cost courses leading to employment in a high technology industry. This provision would authorize an optional lump-sum accelerated payment covering up to 60 percent of the cost of such course, provided the pro-rated costs exceed 200% of the monthly MGIB rate. This lump sum would be deducted from the veteran's remaining MGIB entitlement in the same manner as if paid on a monthly basis. The amendments made by this section would be effective on October 1, 2002.

SECTION 105. Eligibility for Montgomery GI Bill Benefits of Certain Additional Vietnam Era Veterans.

Section 105 would enable a Vietnam-era veteran to convert his or her Vietnam-era GI Bill benefits (under chapter 34 of title 38, United States Code) to MGIB benefits if the veteran had eligibility for the Vietnam-era GI Bill benefits as of December 31, 1989, was not on active duty on October 19, 1984, and served 3 continuous years in the Armed Forces at any time on or after July 1, 1985.

SECTION 106. Increase in Maximum Allowable Annual Senior ROTC Educational Assistance for Benefits Under the Montgomery GI Bill.

Section 106 would increase from \$2,000 to \$3,400 per year the maximum amount a student pursuing a program of education under the Senior Reserve Officers' Training Corps (under section 2107 of title 10, United States Code) may receive in scholarship assistance and still retain eligibility for the MGIB.

SECTION 107. Expansion of Work-Study Opportunities.

Section 107 would expand work-study opportunities for veteran-students and eligible dependents to include: outreach services furnished by State Approving Agencies to servicemembers and veterans; activities for veteran-students and/or dependents (who have declared an academic major) within the department of an academic discipline that complements and reinforces the program of education pursued by the veteran-student; and services in connection with the provision of domiciliary care and nursing home and hospital care to veterans (including state veterans' homes) under chapter 17 of title 38, United States Code. Section 107 would exclude, however, work-study opportunities within the department of the veteran-student's academic discipline. It also would add additional work-study opportunities through national and state veterans' cemeteries.

SECTION 108. Eligibility for Survivors' and Dependents' Educational Assistance of Spouses and Surviving Spouses of Veterans With Total Service-Connected Disabilities.

Section 108 would reinstate a 10-year delimiting period in which spouses may, upon first becoming eligible, use benefits under the DEA program. Spouses made eligible for

these benefits under more than one eligibility status (i.e., as eligible spouse and, subsequently, as eligible surviving spouse) would have two separate 10-year delimiting periods in which to use their chapter 35 benefits, but in no case would their aggregate entitlement exceed 45 months. This provision would overturn a decision by the United State Court of Appeals for Veterans Claims in *Ozer v. Principi*, 14 Vet. App. 257 (2001), that invalidated a VA regulation regarding chapter 35 delimiting periods.

SECTION 109. Expansion of Special Restorative Training Benefit to Certain Disabled Spouses or Surviving Spouses.

Section 109 would expand the special restorative training benefit provided under the DEA program to include certain disabled spouses or surviving spouses.

SECTION 110. Inclusion of Certain Private Technology Entities in Definition of Educational Institution.

Section 110 would amend 38 U.S.C. §§ 3452(c) and 3501(a)(6) to expand the definition of an educational institution to include any private entity that offers, either directly or under an agreement with another entity, a course or courses to fulfill a requirement for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a technological occupation, as determined by the Secretary.

SECTION 111. Distance Education.

Section 111 would amend 38 U.S.C. § 3680A to permit eligible veterans to receive VA education benefits while pursuing noncollege-degree courses that are offered through independent study by institutions of higher learning.

TITLE II -- COMPENSATION AND PENSION PROVISIONS

SECTION 201. Modification and Extension of Authorities on Presumption of Service-Connection for Herbicide-Related Disabilities of Vietnam Veterans.

Section 201 contains several provisions relating to presumption of service connection for diseases associated with exposure to herbicides in the Republic of Vietnam during the Vietnam era. Subsection (a)(1) of section 201 would remove the requirement currently in 38 U.S.C. § 1116(a)(2)(F) that respiratory cancers must become manifest within 30 years after the last date of service by the veteran in the Republic of Vietnam during the Vietnam era in order to qualify for presumptive service connection. Subsection (a)(2) would require VA to enter into a contract with the National Academy of Sciences (NAS) for the performance of a study to determine whether it is possible to identify a period of time after herbicide exposure beyond which a presumption of service connection for respiratory cancers based on such exposure would not be warranted. Subsection (a)(3) would authorize VA to issue regulations reestablishing a time limit on

the presumption of service connection for respiratory cancers, if such time limit is supported by clear scientific evidence in the NAS report. Subsection (a)(4) would provide that any such time limits established by future regulations would apply prospectively only and would not affect grants of service connection made under prior law.

Subsection (b) of section 201 would add "Diabetes Mellitus (Type 2)" to the statutory list in 38 U.S.C. § 1116(a)(2) of diseases with respect to which a presumption of service connection is available based on herbicide exposure. This subsection would codify existing VA regulatory provisions, see 38 C.F.R. §§ 3.307(a)(6) and 3.309(e), establishing a presumption of service connection for diabetes mellitus, type 2, in veterans exposed to herbicides during service.

Subsection (c) of section 201 would expand the category of veterans who are presumed to have been exposed to herbicides in service to include all veterans who served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975. Currently, 38 U.S.C. § 1116(a)(3) provides a presumption of herbicide exposure only if a veteran had such service and has a disease for which a presumption of service connection has been established under section 1116(a).

Subsection (d) of section 201 would amend 38 U.S.C. § 1116(e) and section 3(i) of the Agent Orange Act of 1991, Pub. L. No. 102-4 (38 U.S.C. § 1116 note), to extend through September 30, 2015, VA's authority to obtain biannual reports from the NAS concerning the health effects of herbicides and to establish new presumptions of service connection for diseases associated with herbicide exposure, taking into account the findings of those reports. Under current law, VA's authority expires in 2002.

SECTION 202. Payment of Compensation for Persian Gulf War Veterans with Certain Chronic Disabilities.

Section 202 would revise statutory provisions relating to compensation for disabilities of Gulf War veterans. Subsection (a) of section 202 would revise 38 U.S.C. § 1117(a) to expand the class of disabilities of Gulf War veterans for which VA may pay compensation. Currently, section 1117(a) authorizes compensation only for chronic disability resulting from "an undiagnosed illness (or combination of undiagnosed illnesses)". This legislation would add authority to pay compensation for disability resulting from "[a] medically unexplained chronic multisymptom illness (such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome) that is defined by a cluster of signs or symptoms", and any diagnosed illness the Secretary determines through regulations warrants a presumption of service connection. Subsection (b) of section 202 would codify a provision of VA regulations, 38 C.F.R. § 3.317(b), which lists the signs or symptoms that may be considered manifestations of a qualifying undiagnosed illness or chronic multisymptom illness of a Gulf War veteran. Subsection (d) would clarify sunset provisions in 38 U.S.C. §§ 1117(c)(2) and 1118(e) and section 1603(j) of the Persian Gulf War Veterans Act of 1998 (38 U.S.C. § 1117 note) by

inserting specific dates in lieu of current provisions explaining how to calculate the sunset dates.

SECTION 203. Preservation of Service Connection for Undiagnosed Illnesses to Provide for Participation in Research Projects by Persian Gulf War Veterans.

Section 203 would add a new provision to 38 U.S.C. § 1117 giving the Secretary of Veterans Affairs authority to provide for the protection of service connection granted under 38 U.S.C. §§ 1117 or 1118 for veterans who participate in a VA sponsored medical research project, if the Secretary determines that it is necessary to the conduct of the project that Gulf War veterans participate in the project without the possibility of loss of benefits under those sections. This authority would apply to any VA medical research project, whether begun before, on, or after the date of enactment of this legislation.

Section 204. Repeal of Limitation on Payments of Benefits to Incompetent Institutionalized Veterans.

Section 204 would eliminate the limitation on payment of pension, compensation, or emergency officers' retirement pay to certain incompetent institutionalized veterans. Section 5503(b) of title 38, United States Code, prohibits the payment of pension, compensation, or emergency officers' retirement pay to an incompetent veteran without spouse or child who is receiving hospital treatment or institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision, if the veteran's estate exceeds a specified amount. Section 5503(c) of title 38, United States Code, establishes an evidentiary requirement for proof that a veteran has a spouse, child, or dependent parent. Section 204 would repeal these provisions and make conforming amendments.

SECTION 205. Extension of Round-Down Requirement for Compensation Cost-of-Living Adjustments.

Section 205 would amend 38 U.S.C. §§ 1104(a) and 1303(a), which limit annual cost-of-living increases for compensation and dependency and indemnity compensation to no more than the Social Security percentage increase for the same fiscal year, with all increased monthly rates to be rounded down to the next lower whole dollar amount. Currently, both provisions apply only through fiscal year 2002. Section 205 would extend these provisions through fiscal year 2011.

SECTION 206. Expansion of Presumptions of Permanent and Total Disability for Veterans Applying for Nonservice-Connected Pension.

Section 206 would amend 38 U.S.C. § 1502(a) to provide that a person shall be considered permanently and totally disabled for purposes of nonservice-connected pension if the person is a patient in a nursing home for long-term care because of

disability or has been determined to be disabled for purposes of Social Security benefits.

SECTION 207. Eligibility of Veterans 65 Years of Age or Older for Veterans' Pension Benefits.

Section 207 would add a new section 1513 to title 38, United States Code. New section 1513 would authorize VA to pay nonservice-connected pension at the rate applicable under 38 U.S.C. § 1521 to persons who: (1) are veterans of a period of war; (2) are age 65 or older; and (3) meet the service requirements of 38 U.S.C. § 1521(j). If a veteran is eligible for pension under this new section and also under 38 U.S.C. § 1521, pension would be paid only under section 1521.

TITLE III -- TRANSITION AND OUTREACH PROVISIONS

SECTION 301. Authority to Establish Overseas Veterans Assistance Offices to Expand Transition Assistance.

Section 301 would amend section 7723(a) of title 38, United States Code, to give the Secretary specific discretionary authority to establish veterans' assistance offices on such additional military installations overseas as the Secretary determines necessary. In doing so, the Secretary would be required to consult with the Secretary of Defense.

SECTION 302. Timing of Preseparation Counseling.

Section 302 would change the timing of preseparation counseling to begin as soon as possible during the 24-month period preceding an anticipated retirement and as soon as possible during the 12-month period preceding other separations, but in no event later than 90 days before the date of discharge or release. In the case of an unanticipated retirement or other separation with 90 or fewer days prior to separation, preseparation counseling must begin as soon as possible within the remaining period of service. Except in the case of a servicemember who is being retired or separated for a disability, the Secretary concerned would not be permitted to provide preseparation counseling to a servicemember who is being discharged or released before the completion of that servicemember's first 180 days of active duty service.

SECTION 303. Improvement in Education and Training Outreach Services for Separating Servicemembers and Veterans.

Section 303 would require that State Approving Agencies (SAAs), in addition to the Secretary, actively promote the development of VA programs of training on the job (including programs of apprenticeship) under chapter 36 of title 38, United States Code. Section 203 would also require SAAs, in conjunction with outreach services furnished by the Secretary for education and training benefits under chapter 77 of title 38, United States Code, to conduct outreach programs and provide outreach services to eligible

persons and veterans about education and training benefits available under applicable Federal and State law.

SECTION 304. Improvement of Veterans Outreach Programs.

Section 304 would require VA, whenever a veteran or dependent first applies for any benefit (including a request for burial or related benefits, or on application for life insurance proceeds), to provide (within 3 months of the date of a veteran's or dependent's initial contact) information concerning all benefits and health services under programs administered by the Secretary.

TITLE IV -- HOUSING MATTERS

SECTION 401. Increase in Home Loan Guaranty Amount for Construction and Purchase of Homes.

Section 401 would increase the maximum VA housing loan guaranty from \$50,750 to \$60,000, the first increase in the VA guaranty since October 1994. This provision would have the practical effect of increasing the maximum VA home loan from the current \$203,000 to \$240,000.

SECTION 402. Native American Veteran Housing Loan Pilot Program.

Section 402 would extend the sunset for the direct loan program for Native American veterans living on trust lands from December 31, 2001, until December 31, 2005. This section would also permit VA to make loans under this program to members of a Native American tribe that has entered into a Memorandum of Understanding (MOU) with another Federal agency if that MOU substantially conforms to the requirements of the law governing the VA program. Current law requires a tribe to enter into a separate MOU with VA before VA can make loans to members of that tribe. In addition, section 402 would make a conforming amendment to the requirement for an annual report to the Congress on the Native American Veteran Direct Loan program.

SECTION 403. Modification of Loan Assumption Notice Requirement.

Section 403 would modify the current requirement that all VA loan and security instruments contain, on the first page of each such document, in letters two-and-a-half times the size of the regular type face used in the document, a statement that the loan is not assumable without the approval of VA. Instead, this section would require that this notice appear conspicuously on at least one instrument under guidelines established by VA in regulations.

SECTION 404. Increase in Assistance Amount for Specially Adapted Housing.

Section 404 would increase the grants authorized by chapter 21 of title 38, United States Code, to veterans with certain qualifying service-connected disabilities. These grants assist eligible veterans in making adaptations to their homes that are necessary because of the nature of the veterans' disabilities. The enrolled enactment would increase the Specially Adapted Housing Grant, authorized by section 2101(a), from \$43,000 to \$48,000, and the Special Housing Adaptation Grant, authorized by section 2101(b), from \$8,250 to \$9,250.

SECTION 405. Extension of Other Housing Authorities.

Section 405 would extend the sunsets for several housing loan provisions.

First, the expiration date for housing loan entitlement currently granted to persons whose only qualifying service was in the Selected Reserve, including the National Guard, would be extended from September 30, 2007, until September 30, 2009.

This section would also extend by three years the sunset for the following three cost-saving provisions originally enacted as part of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93): (1) VA's authority under 38 U.S.C. § 3720(h) to guarantee to investors the timely payment of principal and interest on securities backed by a pool of vendee loans sold by VA; (2) the increased fees imposed on most persons obtaining or assuming a loan guaranteed, insured, or made by VA; and (3) mandate the use of the "no-bid formula" contained in 38 U.S.C. § 3732(c) which, as amended by OBRA 93, requires VA to consider, in addition to other costs, VA's loss on the resale of the affected property. The new sunset for the guaranty on vendee loan sales would be December 31, 2011. The new sunset for the remaining two items would be October 1, 2011.

SECTION 406. Clarifying Amendment Relating to Eligibility of Members of the Selected Reserve for Housing Loans.

Section 406 would add clarifying language to the definition of "Reservist" in 38 U.S.C. § 3729(b)(4)(B). The loan fee table in section 3729 of title 38, as amended by section 405 of the enrolled enactment, would specify loan fees to be charged Reservists (and others) both before and after October 1, 2011, even though entitlement for such reservists, as amended by section 405 of the enrolled enactment, currently would expire on September 30, 2009. This amendment makes clear that the dates in the loan fee chart are not intended to extend the expiration of Reservists' entitlement beyond the date contained in section 3702(a)(2)(E) of title 38.

TITLE V--OTHER MATTERS

SECTION 501. Increase in Burial Benefits.

Section 501(a) would increase from \$1,500 to \$2,000 the maximum allowance authorized by 38 U.S.C. § 2307 for the burial and funeral expenses incurred in connection with a veteran's death as the result of a service-connected disability. This increase would be applicable to deaths occurring on or after September 11, 2001. Section 501(b) would increase from \$150 to \$300 the plot allowance authorized by 38 U.S.C. § 2303(b) for certain veterans not buried in a national cemetery. This increase would be applicable to deaths occurring on or after December 1, 2001.

SECTION 502. Government Markers for Marked Graves at Private Cemeteries.

Section 502 would amend 38 U.S.C. § 2306 to require VA to provide, when requested, a Government marker for certain individuals who die on or after the date of enactment and are buried in a private cemetery, notwithstanding that the grave is already marked by a private headstone or marker, provided that the requester certifies that the Government marker will be placed on that grave. The authority to provide such markers would expire on December 31, 2006. Section 502 would also require VA to submit a report on the use of this authority to the House and Senate Committees on Veterans' Affairs not later than February 1, 2006.

SECTION 503. Increase in Amount of Assistance for Automobile and Adaptive Equipment for Certain Disabled Veterans.

Section 503 would increase from \$8,000 to \$9,000 the maximum amount payable under 38 U.S.C. § 3902(a) to provide or assist in providing an automobile or other conveyance to an eligible person.

SECTION 504. Extension of Limitation on Pension for Certain Recipients of Medicaid-Covered Nursing Home Care.

Section 504 would amend 38 U.S.C. § 5503 to extend from September 30, 2008, to September 30, 2011, the expiration date on section 5503, which sets a \$90 per month limit on pension for any veteran without a spouse or child and for any veteran's surviving spouse without a child, if such individual is receiving Medicaid-covered services in a nursing home.

Section 505. Prohibition on Provision of Certain Benefits with Respect to Persons Who Are Fugitive Felons.

Section 505 would add a new section 5313B to title 38, United States Code, to prohibit the payment or provision of compensation, DIC, pension, medical, insurance, education, vocational rehabilitation, and loan guaranty benefits to veterans and dependents of veterans when the veteran or dependent is a fugitive felon. A dependent would include

a spouse, surviving spouse, child, or dependent parent of a veteran. Section 505 would define "fugitive felon" as a person fleeing to avoid prosecution, or custody or confinement after conviction, for an offense that is a felony under the laws of the place from which the person flees, or a person who violates a condition of probation or parole imposed for commission of a felony under Federal or State law. The Secretary of Veterans Affairs would be required to furnish to Federal, State, and local law enforcement officials upon written request the most current address maintained by the Secretary of a person who is eligible for a benefit to which new section 5313B applies.

SECTION 506. Limitation on Payment of Compensation for Veterans Remaining Incarcerated since October 7, 1980.

Section 506 would limit compensation payments to certain veterans who have remained incarcerated since October 7, 1980. Section 5313 of title 38, United States Code, currently provides for the reduction of service-connected disability compensation for veterans confined in a Federal, State, or local penal institution as a result of conviction of a felony. The law was enacted on October 7, 1980, and applies to those veterans who were convicted and incarcerated for a felony committed after the date of enactment, as well as those who were incarcerated on or after October 1, 1980, and are awarded compensation after that date. Section 506 would extend the limitation on compensation payments to veterans who were incarcerated on October 7, 1980, for felonies committed before that date, who remain incarcerated for conviction of that felony as of the date of the enactment of this provision. The provision will take effect 90 days after its enactment.

SECTION 507. Elimination of Requirement for Providing a Copy of Notice of Appeal to the Secretary of Veterans Affairs.

Section 507 would eliminate the requirement in current 38 U.S.C. § 7266(b) that a person who is appealing a Board of Veterans' Appeals decision to the United States Court of Appeals for Veterans Claims (CAVC) furnish the Secretary of Veterans Affairs with a copy of the notice of appeal filed with the court.

SECTION 508. Increase in Fiscal Year Limitation on Number of Veterans in Programs of Independent Living Services and Assistance.

Section 508 would increase the maximum number of veterans allowed to participate in the program of independent living authorized under chapter 31 of title 38, United States Code, to 2,500 (from 500), and would retain first priority to veterans for whom there is a reasonable feasibility of achieving a vocational goal but for their service-connected conditions.

SECTION 509. Technical and Clerical Amendments.

Section 509 would repeal an expired provision, 38 U.S.C. § 712, relating to the size of the VA workforce. Section 509 would also make changes of a clerical or editorial nature to various provisions of title 38, United States Code.

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SECTION 601. Facilitation of Staggered Terms of Judges Through Temporary Expansion of the Court.

Section 601 would, subject to certain limitations, authorize an increase by two in the number of CAVC judges during the period from January 1, 2002, through August 15, 2005, to facilitate staggered terms for judges on that court.

SECTION 602. Repeal of Requirement for Written Notice Regarding Acceptance of Reappointment as Condition to Retirement from the Court.

Section 602 would repeal the requirement in 38 U.S.C. § 7296(b)(2) that, in order for a CAVC judge not reappointed at the expiration of his or her term to take advantage of the retirement authority of that paragraph, the judge must have provided written notice to the President during a specified period of the judge's willingness to accept reappointment to the court.

SECTION 603. Termination of Notice of Disagreement as Jurisdictional Requirement for the Court.

Section 603 would repeal a jurisdictional limitation applicable to appeals to the CAVC. Currently, in order for the CAVC to have jurisdiction over an appeal from a decision of the Board of Veterans' Appeals, the notice of disagreement initiating the underlying administrative appeal must have been filed on or after November 18, 1988, the date of enactment of the Veterans' Judicial Review Act. Section 603 would repeal that jurisdictional limitation and allow the court to review appeals from decisions of the Board regardless of when the notice of disagreement was filed. Section 603 would also repeal a limitation on payment of fees to agents or attorneys representing claimants after the Board makes a first final decision on their claims. Current law permits payment of such fees only in matters in which a notice of disagreement was filed on or after November 18, 1988. The changes made by section 603 would apply to appeals to the CAVC filed on or after the date of enactment of this bill or pending on the date of enactment.

SECTION 604. Registration Fees.

Section 604 would allow the CAVC to impose a registration fee on participants (other than judges of the court) at judicial conferences convened pursuant to 38 U.S.C. § 7286 or in any other court-sponsored activity.

SECTION 605. Administrative Authorities.

Section 605 would add a new section 7287 to title 38, United States Code, generally permitting the CAVC to exercise, for purposes of management, administration, and expenditure of funds of the court, the authorities provided for such purposes by any provision of law applicable to Article III courts.

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Veterans Education and Benefits Expansion - To: POTUS - From: Mitchell E. Daniels, Jr.	5	12/21/2001	P5;

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Saunders, G. Timothy (Tim) - Bill Files

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12/27/2001 [H. R. 1291

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Other Provisions of H.R. 1291

Compensation Benefits to Fugitives and Incarcerated Veterans

H.R. 1291 would prohibit a veteran from receiving VA benefits for the time period during which the veteran is a "fugitive felon." It also would prohibit eligible dependents (spouse, surviving spouse, child, or dependent parent) from receiving VA benefits during the time period that the veteran or the dependent is a fugitive felon. A fugitive felon is defined as a person either: (1) fleeing to avoid prosecution, custody, or confinement after conviction, for an offense or an attempt to commit a felony; or (2) violating a condition of probation or parole. Under current law, a fugitive is generally not subject to the reduction of VA benefits, as is the case with incarcerated veterans.

The enrolled bill would limit VA compensation payments for veterans who, on October 7, 1980, were incarcerated for felonies committed before that date and remain incarcerated for that felony conviction as of the date of the enrolled bill's enactment. Under current law, service-connected disability compensation is reduced for veterans confined in a Federal, State, or local penal institution as a result of a felony conviction. VA advises that the Department recently became aware of approximately 230 veterans who do not fall within the scope of current law, and who are receiving a total of approximately \$2.5 million per year in VA compensation benefits.

Compensation and Pension Provisions

H.R. 1291 would make changes to various VA compensation benefits, including: (1) increasing, from 500 to 2500, the fiscal year limitation on the number of vocational rehabilitation participants in VA's independent living services program, which is designed to assist service-disabled veterans who are too disabled to retrain for employment; (2) increasing, from \$8000 to \$9000, the amount of assistance VA may provide to help certain disabled veterans purchase an automobile; (3) repealing the asset limitation on payment of benefits to incompetent institutionalized veterans who have no dependents; and (4) extending VA's authority, from FY 2002 through FY 2011, to round down to the next lowest whole dollar amount the computation of cost-of-living adjustments for compensation to veterans with service-connected disabilities and survivors of certain disabled veterans.

H.R. 1291 would make changes to veterans' pensions by: (1) extending, from September 30, 2008, through September 30, 2011, the \$90 per month limitation on pensions paid to certain veterans receiving Medicaid-covered nursing home care; (2) expanding the presumptions of permanent and total disability for veterans applying for nonservice-connected pensions; and (3) authorizing pensions to be provided to wartime veterans aged 65 and older without regard to disability, if the veterans meet certain military service requirements and restrictions on income and net worth.

Transition and Outreach

H.R. 1291 would: (1) authorize the VA Secretary to establish veterans' assistance offices on military installations outside of the United States; (2) extend the timing of preseparation counseling for servicemembers leaving military service; (3) require State approving agencies (which approve courses and programs that qualify for certain VA benefits) to actively promote the development of VA on-the-job training programs, as well as conduct outreach programs and provide outreach services to eligible veterans about education and training benefits that are available; and (4) require VA to provide information regarding its benefits and health services to a veteran or dependent within three months of the first application for any VA benefit.

U.S. Court of Appeals for Veterans Claims

H.R. 1291 would make a number of changes to the U.S. Court of Appeals for Veterans Claims (CAVC). The enrolled bill would temporarily expand, until August 2005, the number of CAVC judges from seven to nine to facilitate staggered terms for judges due to the retirements and deaths of some CAVC judges. It also would provide CAVC with the same management, administrative, and expenditure authorities that are available to courts established under Article III of the Constitution. The enrolled bill would allow the CAVC to impose a registration fee on participants at judicial conferences or other Court-sponsored activities.

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Technical and Clarifying Amendments

H.R. 1291 would make a number of technical and clarifying amendments, including repealing limitations in current law on the reduction of VA full-time equivalent positions by the VA Secretary.

WHITE HOUSE STAFFING MEMORANDUMDate: 12-21-01 ACTION / CONCURRENCE / COMMENT DUE BY: 12-26-01, COBSubject: H.R. 1291 -- VETERANS EDUCATION AND BENEFITS EXPANSION ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☐	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☐	☒	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐	_____	☐	☐

REMARKS:

PLEASE SEND COMMENTS TO THE STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN COB WEDNESDAY, 12-26-01. THANK YOU.

RESPONSE:

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702

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VETERANS EDUCATION AND BENEFITS EXPANSION ACT OF 2001

H.R. 1291, 107TH CONGRESS

SECTION-BY-SECTION ANALYSIS

TITLE I -- EDUCATIONAL ASSISTANCE PROVISIONS

SECTION 101. Increase in Rates of Basic Educational Assistance Under Montgomery GI Bill.

Section 101 would amend section 3015 of title 38, United States Code, to increase the monthly rate (for full-time students) of educational assistance under the Montgomery GI Bill – Active Duty (MGIB) for an obligated period of active duty of 3 or more years to \$800, effective January 1, 2002; to \$900, effective, October 1, 2002; and, finally, to \$985, effective October 1, 2003. For a service obligation of 2 years, the monthly assistance rate would be increased to \$650, effective January 1, 2002; to \$732, effective October 1, 2002; and, finally, to \$800 effective October 1, 2003. In view of these specific rate increases, section 101 would also provide that no automatic cost-of-living adjustments, as provided for by section 3015(h) of title 38, United States Code, shall be made during Fiscal Years 2003 and 2004.

SECTION 102. Increase in Rates of Survivors' and Dependents' Educational Assistance.

Section 102 would increase the monthly amount of educational assistance provided under chapter 35 of title 38, United States Code (Survivors' and Dependents' Educational Assistance Program (DEA)), from \$588 to \$670, for full-time students, from \$441 to \$503, for three-quarter time students, and from \$294 to \$335, for half-time students. It would also include increases for on-job training, apprenticeship, and farm cooperative programs. These increases would take effect on January 1, 2002.

SECTION 103. Restoration of Certain Education Benefits of Individuals Being Ordered to Active Duty.

Section 103 would restore entitlement under the MGIB, the Veterans' Educational Assistance Program (VEAP) under chapter 32 of title 38, United States Code, and the DEA program for any servicemembers, reservists, or DEA recipients who had to discontinue course pursuit as a result of being called to active duty under specified authorities during the period designated "Operation Enduring Freedom" and at any time in the future. Section 103 would also provide for entitlement restoration for persons pursuing education or training under chapter 31 of title 38, United States Code. Further, the period during which the person may use his or her educational benefits under chapters 31 or 35 would be extended by a period equal to the length of active service for which such person is recalled, plus four months.

SECTION 104. Accelerated Payments of Educational Assistance Under Montgomery GI Bill for Education Leading to Employment in High Technology Industry.

Section 104 would expand the MGIB to accommodate pursuit of a compressed schedule of high-cost courses leading to employment in a high technology industry. This provision would authorize an optional lump-sum accelerated payment covering up to 60 percent of the cost of such course, provided the pro-rated costs exceed 200% of the monthly MGIB rate. This lump sum would be deducted from the veteran's remaining MGIB entitlement in the same manner as if paid on a monthly basis. The amendments made by this section would be effective on October 1, 2002.

SECTION 105. Eligibility for Montgomery GI Bill Benefits of Certain Additional Vietnam Era Veterans.

Section 105 would enable a Vietnam-era veteran to convert his or her Vietnam-era GI Bill benefits (under chapter 34 of title 38, United States Code) to MGIB benefits if the veteran had eligibility for the Vietnam-era GI Bill benefits as of December 31, 1989, was not on active duty on October 19, 1984, and served 3 continuous years in the Armed Forces at any time on or after July 1, 1985.

SECTION 106. Increase in Maximum Allowable Annual Senior ROTC Educational Assistance for Benefits Under the Montgomery GI Bill.

Section 106 would increase from \$2,000 to \$3,400 per year the maximum amount a student pursuing a program of education under the Senior Reserve Officers' Training Corps (under section 2107 of title 10, United States Code) may receive in scholarship assistance and still retain eligibility for the MGIB.

SECTION 107. Expansion of Work-Study Opportunities.

Section 107 would expand work-study opportunities for veteran-students and eligible dependents to include: outreach services furnished by State Approving Agencies to servicemembers and veterans; activities for veteran-students and/or dependents (who have declared an academic major) within the department of an academic discipline that complements and reinforces the program of education pursued by the veteran-student; and services in connection with the provision of domiciliary care and nursing home and hospital care to veterans (including state veterans' homes) under chapter 17 of title 38, United States Code. Section 107 would exclude, however, work-study opportunities within the department of the veteran-student's academic discipline. It also would add additional work-study opportunities through national and state veterans' cemeteries.

SECTION 108. Eligibility for Survivors' and Dependents' Educational Assistance of Spouses and Surviving Spouses of Veterans With Total Service-Connected Disabilities.

Section 108 would reinstate a 10-year delimiting period in which spouses may, upon first becoming eligible, use benefits under the DEA program. Spouses made eligible for

these benefits under more than one eligibility status (i.e., as eligible spouse and, subsequently, as eligible surviving spouse) would have two separate 10-year delimiting periods in which to use their chapter 35 benefits, but in no case would their aggregate entitlement exceed 45 months. This provision would overturn a decision by the United State Court of Appeals for Veterans Claims in *Ozer v. Principi*, 14 Vet. App. 257 (2001), that invalidated a VA regulation regarding chapter 35 delimiting periods.

SECTION 109. Expansion of Special Restorative Training Benefit to Certain Disabled Spouses or Surviving Spouses.

Section 109 would expand the special restorative training benefit provided under the DEA program to include certain disabled spouses or surviving spouses.

SECTION 110. Inclusion of Certain Private Technology Entities in Definition of Educational Institution.

Section 110 would amend 38 U.S.C. §§ 3452(c) and 3501(a)(6) to expand the definition of an educational institution to include any private entity that offers, either directly or under an agreement with another entity, a course or courses to fulfill a requirement for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a technological occupation, as determined by the Secretary.

SECTION 111. Distance Education.

Section 111 would amend 38 U.S.C. § 3680A to permit eligible veterans to receive VA education benefits while pursuing noncollege-degree courses that are offered through independent study by institutions of higher learning.

TITLE II -- COMPENSATION AND PENSION PROVISIONS

SECTION 201. Modification and Extension of Authorities on Presumption of Service-Connection for Herbicide-Related Disabilities of Vietnam Veterans.

Section 201 contains several provisions relating to presumption of service connection for diseases associated with exposure to herbicides in the Republic of Vietnam during the Vietnam era. Subsection (a)(1) of section 201 would remove the requirement currently in 38 U.S.C. § 1116(a)(2)(F) that respiratory cancers must become manifest within 30 years after the last date of service by the veteran in the Republic of Vietnam during the Vietnam era in order to qualify for presumptive service connection. Subsection (a)(2) would require VA to enter into a contract with the National Academy of Sciences (NAS) for the performance of a study to determine whether it is possible to identify a period of time after herbicide exposure beyond which a presumption of service connection for respiratory cancers based on such exposure would not be warranted. Subsection (a)(3) would authorize VA to issue regulations reestablishing a time limit on

the presumption of service connection for respiratory cancers, if such time limit is supported by clear scientific evidence in the NAS report. Subsection (a)(4) would provide that any such time limits established by future regulations would apply prospectively only and would not affect grants of service connection made under prior law.

Subsection (b) of section 201 would add "Diabetes Mellitus (Type 2)" to the statutory list in 38 U.S.C. § 1116(a)(2) of diseases with respect to which a presumption of service connection is available based on herbicide exposure. This subsection would codify existing VA regulatory provisions, see 38 C.F.R. §§ 3.307(a)(6) and 3.309(e), establishing a presumption of service connection for diabetes mellitus, type 2, in veterans exposed to herbicides during service.

Subsection (c) of section 201 would expand the category of veterans who are presumed to have been exposed to herbicides in service to include all veterans who served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975. Currently, 38 U.S.C. § 1116(a)(3) provides a presumption of herbicide exposure only if a veteran had such service and has a disease for which a presumption of service connection has been established under section 1116(a).

Subsection (d) of section 201 would amend 38 U.S.C. § 1116(e) and section 3(i) of the Agent Orange Act of 1991, Pub. L. No. 102-4 (38 U.S.C. § 1116 note), to extend through September 30, 2015, VA's authority to obtain biannual reports from the NAS concerning the health effects of herbicides and to establish new presumptions of service connection for diseases associated with herbicide exposure, taking into account the findings of those reports. Under current law, VA's authority expires in 2002.

SECTION 202. Payment of Compensation for Persian Gulf War Veterans with Certain Chronic Disabilities.

Section 202 would revise statutory provisions relating to compensation for disabilities of Gulf War veterans. Subsection (a) of section 202 would revise 38 U.S.C. § 1117(a) to expand the class of disabilities of Gulf War veterans for which VA may pay compensation. Currently, section 1117(a) authorizes compensation only for chronic disability resulting from "an undiagnosed illness (or combination of undiagnosed illnesses)". This legislation would add authority to pay compensation for disability resulting from "[a] medically unexplained chronic multisymptom illness (such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome) that is defined by a cluster of signs or symptoms", and any diagnosed illness the Secretary determines through regulations warrants a presumption of service connection. Subsection (b) of section 202 would codify a provision of VA regulations, 38 C.F.R. § 3.317(b), which lists the signs or symptoms that may be considered manifestations of a qualifying undiagnosed illness or chronic multisymptom illness of a Gulf War veteran. Subsection (d) would clarify sunset provisions in 38 U.S.C. §§ 1117(c)(2) and 1118(e) and section 1603(j) of the Persian Gulf War Veterans Act of 1998 (38 U.S.C. § 1117 note) by

inserting specific dates in lieu of current provisions explaining how to calculate the sunset dates.

SECTION 203. Preservation of Service Connection for Undiagnosed Illnesses to Provide for Participation in Research Projects by Persian Gulf War Veterans.

Section 203 would add a new provision to 38 U.S.C. § 1117 giving the Secretary of Veterans Affairs authority to provide for the protection of service connection granted under 38 U.S.C. §§ 1117 or 1118 for veterans who participate in a VA sponsored medical research project, if the Secretary determines that it is necessary to the conduct of the project that Gulf War veterans participate in the project without the possibility of loss of benefits under those sections. This authority would apply to any VA medical research project, whether begun before, on, or after the date of enactment of this legislation.

Section 204. Repeal of Limitation on Payments of Benefits to Incompetent Institutionalized Veterans.

Section 204 would eliminate the limitation on payment of pension, compensation, or emergency officers' retirement pay to certain incompetent institutionalized veterans. Section 5503(b) of title 38, United States Code, prohibits the payment of pension, compensation, or emergency officers' retirement pay to an incompetent veteran without spouse or child who is receiving hospital treatment or institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision, if the veteran's estate exceeds a specified amount. Section 5503(c) of title 38, United States Code, establishes an evidentiary requirement for proof that a veteran has a spouse, child, or dependent parent. Section 204 would repeal these provisions and make conforming amendments.

SECTION 205. Extension of Round-Down Requirement for Compensation Cost-of-Living Adjustments.

Section 205 would amend 38 U.S.C. §§ 1104(a) and 1303(a), which limit annual cost-of-living increases for compensation and dependency and indemnity compensation to no more than the Social Security percentage increase for the same fiscal year, with all increased monthly rates to be rounded down to the next lower whole dollar amount. Currently, both provisions apply only through fiscal year 2002. Section 205 would extend these provisions through fiscal year 2011.

SECTION 206. Expansion of Presumptions of Permanent and Total Disability for Veterans Applying for Nonservice-Connected Pension.

Section 206 would amend 38 U.S.C. § 1502(a) to provide that a person shall be considered permanently and totally disabled for purposes of nonservice-connected pension if the person is a patient in a nursing home for long-term care because of

disability or has been determined to be disabled for purposes of Social Security benefits.

SECTION 207. Eligibility of Veterans 65 Years of Age or Older for Veterans' Pension Benefits.

Section 207 would add a new section 1513 to title 38, United States Code. New section 1513 would authorize VA to pay nonservice-connected pension at the rate applicable under 38 U.S.C. § 1521 to persons who: (1) are veterans of a period of war; (2) are age 65 or older; and (3) meet the service requirements of 38 U.S.C. § 1521(j). If a veteran is eligible for pension under this new section and also under 38 U.S.C. § 1521, pension would be paid only under section 1521.

TITLE III -- TRANSITION AND OUTREACH PROVISIONS

SECTION 301. Authority to Establish Overseas Veterans Assistance Offices to Expand Transition Assistance.

Section 301 would amend section 7723(a) of title 38, United States Code, to give the Secretary specific discretionary authority to establish veterans' assistance offices on such additional military installations overseas as the Secretary determines necessary. In doing so, the Secretary would be required to consult with the Secretary of Defense.

SECTION 302. Timing of Preseparation Counseling.

Section 302 would change the timing of preseparation counseling to begin as soon as possible during the 24-month period preceding an anticipated retirement and as soon as possible during the 12-month period preceding other separations, but in no event later than 90 days before the date of discharge or release. In the case of an unanticipated retirement or other separation with 90 or fewer days prior to separation, preseparation counseling must begin as soon as possible within the remaining period of service. Except in the case of a servicemember who is being retired or separated for a disability, the Secretary concerned would not be permitted to provide preseparation counseling to a servicemember who is being discharged or released before the completion of that servicemember's first 180 days of active duty service.

SECTION 303. Improvement in Education and Training Outreach Services for Separating Servicemembers and Veterans.

Section 303 would require that State Approving Agencies (SAAs), in addition to the Secretary, actively promote the development of VA programs of training on the job (including programs of apprenticeship) under chapter 36 of title 38, United States Code. Section 203 would also require SAAs, in conjunction with outreach services furnished by the Secretary for education and training benefits under chapter 77 of title 38, United States Code, to conduct outreach programs and provide outreach services to eligible

persons and veterans about education and training benefits available under applicable Federal and State law.

SECTION 304. Improvement of Veterans Outreach Programs.

Section 304 would require VA, whenever a veteran or dependent first applies for any benefit (including a request for burial or related benefits, or on application for life insurance proceeds), to provide (within 3 months of the date of a veteran's or dependent's initial contact) information concerning all benefits and health services under programs administered by the Secretary.

TITLE IV -- HOUSING MATTERS

SECTION 401. Increase in Home Loan Guaranty Amount for Construction and Purchase of Homes.

Section 401 would increase the maximum VA housing loan guaranty from \$50,750 to \$60,000, the first increase in the VA guaranty since October 1994. This provision would have the practical effect of increasing the maximum VA home loan from the current \$203,000 to \$240,000.

SECTION 402. Native American Veteran Housing Loan Pilot Program.

Section 402 would extend the sunset for the direct loan program for Native American veterans living on trust lands from December 31, 2001, until December 31, 2005. This section would also permit VA to make loans under this program to members of a Native American tribe that has entered into a Memorandum of Understanding (MOU) with another Federal agency if that MOU substantially conforms to the requirements of the law governing the VA program. Current law requires a tribe to enter into a separate MOU with VA before VA can make loans to members of that tribe. In addition, section 402 would make a conforming amendment to the requirement for an annual report to the Congress on the Native American Veteran Direct Loan program.

SECTION 403. Modification of Loan Assumption Notice Requirement.

Section 403 would modify the current requirement that all VA loan and security instruments contain, on the first page of each such document, in letters two-and-a-half times the size of the regular type face used in the document, a statement that the loan is not assumable without the approval of VA. Instead, this section would require that this notice appear conspicuously on at least one instrument under guidelines established by VA in regulations.

SECTION 404. Increase in Assistance Amount for Specially Adapted Housing.

Section 404 would increase the grants authorized by chapter 21 of title 38, United States Code, to veterans with certain qualifying service-connected disabilities. These grants assist eligible veterans in making adaptations to their homes that are necessary because of the nature of the veterans' disabilities. The enrolled enactment would increase the Specially Adapted Housing Grant, authorized by section 2101(a), from \$43,000 to \$48,000, and the Special Housing Adaptation Grant, authorized by section 2101(b), from \$8,250 to \$9,250.

SECTION 405. Extension of Other Housing Authorities.

Section 405 would extend the sunsets for several housing loan provisions.

First, the expiration date for housing loan entitlement currently granted to persons whose only qualifying service was in the Selected Reserve, including the National Guard, would be extended from September 30, 2007, until September 30, 2009.

This section would also extend by three years the sunset for the following three cost-saving provisions originally enacted as part of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93): (1) VA's authority under 38 U.S.C. § 3720(h) to guarantee to investors the timely payment of principal and interest on securities backed by a pool of vendee loans sold by VA; (2) the increased fees imposed on most persons obtaining or assuming a loan guaranteed, insured, or made by VA; and (3) mandate the use of the "no-bid formula" contained in 38 U.S.C. § 3732(c) which, as amended by OBRA 93, requires VA to consider, in addition to other costs, VA's loss on the resale of the affected property. The new sunset for the guaranty on vendee loan sales would be December 31, 2011. The new sunset for the remaining two items would be October 1, 2011.

SECTION 406. Clarifying Amendment Relating to Eligibility of Members of the Selected Reserve for Housing Loans.

Section 406 would add clarifying language to the definition of "Reservist" in 38 U.S.C. § 3729(b)(4)(B). The loan fee table in section 3729 of title 38, as amended by section 405 of the enrolled enactment, would specify loan fees to be charged Reservists (and others) both before and after October 1, 2011, even though entitlement for such reservists, as amended by section 405 of the enrolled enactment, currently would expire on September 30, 2009. This amendment makes clear that the dates in the loan fee chart are not intended to extend the expiration of Reservists' entitlement beyond the date contained in section 3702(a)(2)(E) of title 38.

TITLE V--OTHER MATTERS

SECTION 501. Increase in Burial Benefits.

Section 501(a) would increase from \$1,500 to \$2,000 the maximum allowance authorized by 38 U.S.C. § 2307 for the burial and funeral expenses incurred in connection with a veteran's death as the result of a service-connected disability. This increase would be applicable to deaths occurring on or after September 11, 2001. Section 501(b) would increase from \$150 to \$300 the plot allowance authorized by 38 U.S.C. § 2303(b) for certain veterans not buried in a national cemetery. This increase would be applicable to deaths occurring on or after December 1, 2001.

SECTION 502. Government Markers for Marked Graves at Private Cemeteries.

Section 502 would amend 38 U.S.C. § 2306 to require VA to provide, when requested, a Government marker for certain individuals who die on or after the date of enactment and are buried in a private cemetery, notwithstanding that the grave is already marked by a private headstone or marker, provided that the requester certifies that the Government marker will be placed on that grave. The authority to provide such markers would expire on December 31, 2006. Section 502 would also require VA to submit a report on the use of this authority to the House and Senate Committees on Veterans' Affairs not later than February 1, 2006.

SECTION 503. Increase in Amount of Assistance for Automobile and Adaptive Equipment for Certain Disabled Veterans.

Section 503 would increase from \$8,000 to \$9,000 the maximum amount payable under 38 U.S.C. § 3902(a) to provide or assist in providing an automobile or other conveyance to an eligible person.

SECTION 504. Extension of Limitation on Pension for Certain Recipients of Medicaid-Covered Nursing Home Care.

Section 504 would amend 38 U.S.C. § 5503 to extend from September 30, 2008, to September 30, 2011, the expiration date on section 5503, which sets a \$90 per month limit on pension for any veteran without a spouse or child and for any veteran's surviving spouse without a child, if such individual is receiving Medicaid-covered services in a nursing home.

Section 505. Prohibition on Provision of Certain Benefits with Respect to Persons Who Are Fugitive Felons.

Section 505 would add a new section 5313B to title 38, United States Code, to prohibit the payment or provision of compensation, DIC, pension, medical, insurance, education, vocational rehabilitation, and loan guaranty benefits to veterans and dependents of veterans when the veteran or dependent is a fugitive felon. A dependent would include

a spouse, surviving spouse, child, or dependent parent of a veteran. Section 505 would define "fugitive felon" as a person fleeing to avoid prosecution, or custody or confinement after conviction, for an offense that is a felony under the laws of the place from which the person flees, or a person who violates a condition of probation or parole imposed for commission of a felony under Federal or State law. The Secretary of Veterans Affairs would be required to furnish to Federal, State, and local law enforcement officials upon written request the most current address maintained by the Secretary of a person who is eligible for a benefit to which new section 5313B applies.

SECTION 506. Limitation on Payment of Compensation for Veterans Remaining Incarcerated since October 7, 1980.

Section 506 would limit compensation payments to certain veterans who have remained incarcerated since October 7, 1980. Section 5313 of title 38, United States Code, currently provides for the reduction of service-connected disability compensation for veterans confined in a Federal, State, or local penal institution as a result of conviction of a felony. The law was enacted on October 7, 1980, and applies to those veterans who were convicted and incarcerated for a felony committed after the date of enactment, as well as those who were incarcerated on or after October 1, 1980, and are awarded compensation after that date. Section 506 would extend the limitation on compensation payments to veterans who were incarcerated on October 7, 1980, for felonies committed before that date, who remain incarcerated for conviction of that felony as of the date of the enactment of this provision. The provision will take effect 90 days after its enactment.

SECTION 507. Elimination of Requirement for Providing a Copy of Notice of Appeal to the Secretary of Veterans Affairs.

Section 507 would eliminate the requirement in current 38 U.S.C. § 7266(b) that a person who is appealing a Board of Veterans' Appeals decision to the United States Court of Appeals for Veterans Claims (CAVC) furnish the Secretary of Veterans Affairs with a copy of the notice of appeal filed with the court.

SECTION 508. Increase in Fiscal Year Limitation on Number of Veterans in Programs of Independent Living Services and Assistance.

Section 508 would increase the maximum number of veterans allowed to participate in the program of independent living authorized under chapter 31 of title 38, United States Code, to 2,500 (from 500), and would retain first priority to veterans for whom there is a reasonable feasibility of achieving a vocational goal but for their service-connected conditions.

SECTION 509. Technical and Clerical Amendments.

Section 509 would repeal an expired provision, 38 U.S.C. § 712, relating to the size of the VA workforce. Section 509 would also make changes of a clerical or editorial nature to various provisions of title 38, United States Code.

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SECTION 601. Facilitation of Staggered Terms of Judges Through Temporary Expansion of the Court.

Section 601 would, subject to certain limitations, authorize an increase by two in the number of CAVC judges during the period from January 1, 2002, through August 15, 2005, to facilitate staggered terms for judges on that court.

SECTION 602. Repeal of Requirement for Written Notice Regarding Acceptance of Reappointment as Condition to Retirement from the Court.

Section 602 would repeal the requirement in 38 U.S.C. § 7296(b)(2) that, in order for a CAVC judge not reappointed at the expiration of his or her term to take advantage of the retirement authority of that paragraph, the judge must have provided written notice to the President during a specified period of the judge's willingness to accept reappointment to the court.

SECTION 603. Termination of Notice of Disagreement as Jurisdictional Requirement for the Court.

Section 603 would repeal a jurisdictional limitation applicable to appeals to the CAVC. Currently, in order for the CAVC to have jurisdiction over an appeal from a decision of the Board of Veterans' Appeals, the notice of disagreement initiating the underlying administrative appeal must have been filed on or after November 18, 1988, the date of enactment of the Veterans' Judicial Review Act. Section 603 would repeal that jurisdictional limitation and allow the court to review appeals from decisions of the Board regardless of when the notice of disagreement was filed. Section 603 would also repeal a limitation on payment of fees to agents or attorneys representing claimants after the Board makes a first final decision on their claims. Current law permits payment of such fees only in matters in which a notice of disagreement was filed on or after November 18, 1988. The changes made by section 603 would apply to appeals to the CAVC filed on or after the date of enactment of this bill or pending on the date of enactment.

SECTION 604. Registration Fees.

Section 604 would allow the CAVC to impose a registration fee on participants (other than judges of the court) at judicial conferences convened pursuant to 38 U.S.C. § 7286 or in any other court-sponsored activity.

SECTION 605. Administrative Authorities.

Section 605 would add a new section 7287 to title 38, United States Code, generally permitting the CAVC to exercise, for purposes of management, administration, and expenditure of funds of the court, the authorities provided for such purposes by any provision of law applicable to Article III courts.

One Hundred Seventh Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday,
the third day of January, two thousand and one*

An Act

To amend title 38, United States Code, to modify and improve authorities relating to education benefits, compensation and pension benefits, housing benefits, burial benefits, and vocational rehabilitation benefits for veterans, to modify certain authorities relating to the United States Court of Appeals for Veterans Claims, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Veterans Education and Benefits Expansion Act of 2001”.

(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—EDUCATIONAL ASSISTANCE PROVISIONS

- Sec. 101. Increase in rates of basic educational assistance under Montgomery GI Bill.
- Sec. 102. Increase in rates of survivors' and dependents' educational assistance.
- Sec. 103. Restoration of certain education benefits of individuals being ordered to active duty.
- Sec. 104. Accelerated payments of educational assistance under Montgomery GI Bill for education leading to employment in high technology industry.
- Sec. 105. Eligibility for Montgomery GI Bill benefits of certain additional Vietnam era veterans.
- Sec. 106. Increase in maximum allowable annual Senior ROTC educational assistance for eligibility for benefits under the Montgomery GI Bill.
- Sec. 107. Expansion of work-study opportunities.
- Sec. 108. Eligibility for survivors' and dependents' educational assistance of spouses and surviving spouses of veterans with total service-connected disabilities.
- Sec. 109. Expansion of special restorative training benefit to certain disabled spouses or surviving spouses.
- Sec. 110. Inclusion of certain private technology entities in definition of educational institution.
- Sec. 111. Distance education.

TITLE II—COMPENSATION AND PENSION PROVISIONS

- Sec. 201. Modification and extension of authorities on presumption of service-connection for herbicide-related disabilities of Vietnam veterans.
- Sec. 202. Payment of compensation for Persian Gulf War veterans with certain chronic disabilities.
- Sec. 203. Preservation of service connection for undiagnosed illnesses to provide for participation in research projects by Persian Gulf War veterans.
- Sec. 204. Repeal of limitation on payments of benefits to incompetent institutionalized veterans.
- Sec. 205. Extension of round-down requirement for compensation cost-of-living adjustments.
- Sec. 206. Expansion of presumptions of permanent and total disability for veterans applying for nonservice-connected pension.

"§ 7285. Practice and registration fees".

(2) The item relating to such section in the table of sections at the beginning of chapter 72 is amended to read as follows:

"7285. Practice and registration fees."

SEC. 605. ADMINISTRATIVE AUTHORITIES.

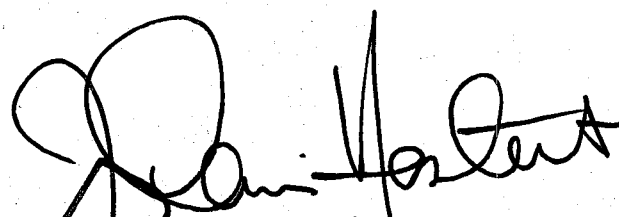
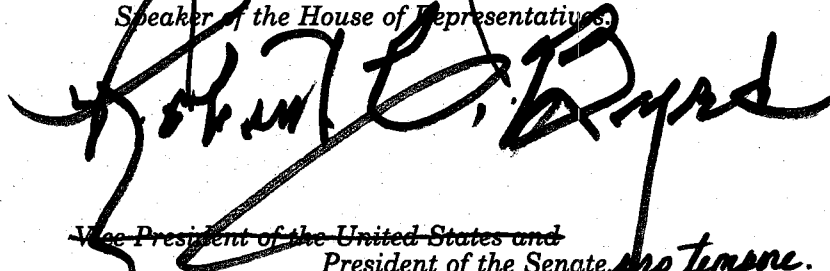
(a) **IN GENERAL.**—Subchapter III of chapter 72 is amended by inserting after section 7286 the following new section:

"§ 7287. Administration

"Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds of the Court, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision of law) applicable to a court of the United States (as that term is defined in section 451 of title 28), except to the extent that such provision of law is inconsistent with a provision of this chapter."

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 7286 the following new item:

"7287. Administration."


Speaker of the House of Representatives

~~Vice President of the United States and~~
President of the Senate *pro tempore.*

APPROVED
DEC 27 2001

