

VETERANS HOUSING, EMPLOYMENT PROGRAMS, AND  
EMPLOYMENT RIGHTS BENEFITS ACT OF 1995

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DECEMBER 11, 1995.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. STUMP, from the Committee on Veterans' Affairs,

submitted the following

R E P O R T

[To accompany H.R. 2289]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2289) to amend title 38, United States Code, to extend permanently certain housing programs, to improve the veterans employment and training system, and to make clarifying and technical amendments to further clarify the employment and reemployment rights and responsibilities of members of the uniformed services, as well as those of the employer community, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

INTRODUCTION

The Subcommittee on Education, Training, Employment and Housing met on September 7, 1995 and recommended the discussion draft which became H.R. 2289 to the full Committee. The full Committee met on September 20, 1995, and ordered H.R. 2289 reported favorably to the House by unanimous voice vote.

SUMMARY OF THE REPORTED BILL

H.R. 2289 contains three titles. Title I would:

1. Permanently authorize certain veterans' housing programs, including:

(a) Negotiated interest rates—permit a veteran to negotiate with lenders and sellers for the most favorable rate and terms available;

(b) Adjustable rate mortgages—veterans may purchase a home using a VA-guaranteed adjustable rate mortgage.

(c) Energy efficient mortgages—cover the costs of energy efficiency improvements to a veterans' primary residence or energy efficiency improvements to a dwelling owned by a veteran;

(d) Authority of lenders of automatically guaranteed loans to review appraisals—allow lenders to directly review appraisal reports and determine the value of property purchased with a VA-guaranteed loan; and

(e) Housing assistance for homeless veterans—help homeless veterans and families acquire shelter through agreements between the Secretary and community based organizations or states.

2. Extend the VA's authority for the enhanced loan asset sale authority for an additional five years. Authorizes the Secretary to guarantee the timely payment of principal and interest of securities evidencing an interest in a pool of mortgages made by the Secretary.

3. Require the VA to report every 2 years instead of every year on the above-named VA home loan programs.

4. Rename the "Homeless Veterans' Reintegration Project" the "Homeless Veterans Employment Program" and extend the program through fiscal year 1998 with an annual \$10 million authorization.

5. Require the Secretary of the Department of Labor (DOL) to maintain no fewer than five Veterans Employment and Training Service (VETS) regional offices in order to permit DOL to consolidate and reduce the number of regional offices.

6. Require that VETS Regional Administrators appointed after the date of enactment of this Act be veterans.

7. Broaden the duties of certain state-based clerical positions to include other kinds of veterans employment program responsibilities.

8. Maintain the two-year residency requirement for State Directors and Assistant Directors for Veterans Employment and Training, but allow individuals who have served as Directors or Assistant Directors for at least two years to be appointed as a Director and Assistant Director in any state.

9. Authorize the Secretary of Labor to conduct a five-state pilot program under which the primary responsibilities of the Local Veterans Employment Representatives (LVERs) would be case management and the provision of direct employment and training services to veterans in employment centers operated under the authority of a State.

10. Require DOL to report to Congress on the effect of the pilot program on the timeliness and quality of employment and training services to veterans.

11. Clarify that under section 4311, title 38, USC, the standard and burden-of-proof provisions included in this section apply to both the anti-reprisal and anti-discrimination provisions.

12. Clarify that the time during which an individual is entitled to reemployment rights and benefits includes the period prior to actually entering military service, to the extent that such time is necessary to prepare for entering military service or traveling to the military service site.

13. Clarify that the types of military service which do not count toward an individual's five-year service limit include service performed by a member of a uniformed service who is ordered to or retained on active duty under any provision of law because of a war or national emergency declared by the President or the Congress.

14. Clarify that DOL investigators have the right to interview individuals with information relevant to their investigation.

15. Emphasize that an employer can not require an employee to use vacation or similar leave time in order to participate in military training.

16. Clarify that protection under chapter 43 covers not only the period of uniformed service but also the period prior to actually entering service, to the extent that that time is necessary to prepare for entering uniformed service or for traveling to the military service site.

17. Clarify the mission of the Department of Labor (DOL) in the case-resolution process; would also clarify that USERRA continues case processing procedures that existed under the previous veterans' reemployment rights law whereby any case, including those the Department found to be non-meritorious, was referred to the U.S. Attorney if the claimant requested referral.

18. Emphasize the special role assigned to the Office of Personnel Management in providing assistance to federal employees under chapter 43.

## BACKGROUND AND DISCUSSION

### TITLE I—VETERANS' HOUSING PROGRAMS

This year marks the 51st anniversary of the enactment of the "Serviceman's Readjustment Act", Public Law 78-346, which created the VA Home Loan Guaranty Program. Under this program, the VA has guaranteed nearly 15 million homes valued in excess of \$459 billion. The expenses associated with VA home loan programs are funded by direct, mandatory accounts.

#### *Permanent housing extenders*

Section 101(a) of the Committee bill would make permanent several housing-related pilot programs including the Negotiated Interest Rate (NIR) program. This program, established as a pilot under Public Law 102-547, allows a veteran to negotiate the interest rate percentage as well as the points with a lender. The Committee has reviewed loan rates and has found that veterans are receiving competitive rates that compare favorably with non VA-guaranteed mortgage loans. Historically, the Secretary set interest rates and veterans were prohibited from paying discount points. It is the Committee's view that the artificial limit on interest rates and the discount point policy sometimes made it difficult for veterans to obtain financing.

Section 101(b) of the bill would make permanent the Secretary's authority to make energy efficient mortgages to cover the costs of energy-related improvements to the primary residence or energy efficiency improvements to a dwelling owned by a veteran. The pilot program establishing these loans was contained in P.L. 102-547. VA guaranteed 995 energy efficient mortgages in fiscal year 1994, with an average loan amount for energy-efficiency improvements of \$2,995. The Committee considers energy efficiency cost savings to be of considerable importance in deciding to authorize this program permanently.

Section 101(c) of H.R. 2289 would also make permanent the authority of the Secretary to guarantee the real estate mortgage investment conduits (REMICs) that are used to market vendee loans. This authorization would guarantee timely payments of principal and interest on the certificates issued by the REMICs. Extending the sale program would eliminate the need for VA servicing and would permit the conversion of long-term receivables into cash assets when VA sells the loans. This program has no direct or indirect effect on veterans or their ability to secure home loans.

The VA's lead underwriter, First Boston Corporation, has estimated that timely payments reduce the yield that must be offered to investors. Reducing the yield on certificates would lower the payments to certificate holders and thereby increase sales receipts to VA. Other sales-related costs such as Securities and Exchange registration and credit rating costs would be eliminated as well, boosting potential savings. Sales volume remains consistent at about \$440 million, with the VA normally holding sales three times annually. However, the volume of loan sales is linked to the number of properties VA requires following foreclosure. This number has declined in the past several years.

Section 101(d) of the bill would also make permanent the authority for lenders of automatically guaranteed loans to review appraisals, thus permitting lenders to directly review appraisal reports done by VA-selected appraisers without the appraisals being first reviewed by VA. This procedure shortens loan processing time. During the first three quarters of fiscal year 1995, 32 percent of the loans were guaranteed using this provision. The Committee and VA found that this program increases efficiency and should be continued.

Section 101(e) would make permanent a provision of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102-590), which established a program under which homeless veterans and their families could acquire shelter through agreements by the Secretary and community-based organizations or states. The program was subject to appropriations and first received funding in fiscal year 1994.

#### *Codification of reporting requirements*

Section 102(a) codifies the VA reporting requirements for veterans home loan programs, and makes changes to the reporting frequency of the reports to every second year, regarding VA housing programs affecting the status of Selected Reserve borrowers; negotiated interest rates; determination of reasonable rates; loans for

energy efficiency improvements and direct loans to Native Americans.

#### *Adjustable Rate Mortgage Program*

Section 102(b) would make the adjustable rate mortgage (ARM) program permanent.

Following the Committee's Mark-up, the Congressional Budget Office submitted a second budget estimate indicating that the program had a direct cost of \$37 million for one year. The pay-go implications of the estimate make a re-authorization of the program difficult.

ARMs (Public Law 102-547) are guaranteed loans with an adjustable interest rate that changes relative to a specific national interest rate index approved by the Secretary (usually the 6-month Treasury Bill). Changes in the interest rate are limited in any single yearly adjustment to a maximum of one percent increase or decrease. The rate may increase a maximum of five percent over the life of the loan.

ARMs have become an increasingly popular option for home financing for veterans, and for the public in general. In Fiscal Year 1994, about 11 percent of all VA loans were of this type, while during the first half of the current fiscal year, 21 percent of all VA loans were ARMs.

The Committee notes, and disagrees with CBO's use of Federal National Mortgage Association (Fannie Mae) data to develop its cost estimate because the VA ARM program nearly mirrors the 10-year-old Federal Housing Administration (FHA) ARM program, whose data clearly indicates very favorable foreclosure rates as compared with FHA fixed-rate loan programs.

The Committee also notes that VA has experienced only seven (7) ARM foreclosures out of over 68,000 ARM loans guaranteed in 1993 and 1994. Industry officials indicate that ARM foreclosures typically occur within the first year of the loan.

The Committee disagrees with the CBO estimate for the ARM program. Lower interest rates, conservative underwriting, extensive pre-foreclosure outreach and assistance, and extremely favorable experience with its existing base of ARMs lead the Committee to believe the program merits continuation.

#### *Homeless Veterans Reintegration Program*

Section 103(a) is a provision to rename the Homeless Veterans Reintegration Program (HVRP) to reflect the employment focus of the program, changing its name to the Homeless Veterans Employment Program (HVEP). As the focus of any homeless program should be employment of the veteran, the program should reflect that goal in its name and by its mandates. Clearly job placement is the best method to remove veterans from the streets.

The Committee finds that the service provided veterans by each of the program warrant the continuation of the program on a permanent basis.

The Committee feels that the Homeless Veterans Reintegration Project (HVRP) as administered by the Department of Labor, has been a remarkably effective program, in spite of its rather meager funding level. HVRP was designed to find and place homeless vet-

erans in jobs and, in cooperation with community-based organizations, help indigent and homeless veterans return to society as productive citizens. Although in past years \$5 million has been appropriated for the program, the program will receive no appropriated support for fiscal year 1996. The Committee nonetheless strongly believes that HVRP has been an exemplary program and should be maintained. The Appropriations Committee has urged the Secretary of Labor to fund the program within his discretionary resources, and the Committee concurs with this guidance. The Committee strongly supports reauthorizing the program so that the Department of Labor can fund from other resources or so Congress may direct future appropriations to the program.

#### TITLE II—VETERANS EMPLOYMENT PROGRAM

The Assistant Secretary of Labor for Veterans Employment and Training (ASVET) is endeavoring to down-size the VETS, while at the same time maintaining high levels of service to veterans in search of employment and training. To enable VETS to accomplish this, the Committee bill includes several provisions recommended by the ASVET which the Committee agrees would accomplish this mandate.

##### *Regional Administrators for Veterans' Employment and Training*

Section 201 of the Committee bill would require the Secretary of Labor to maintain no fewer than five Regional Administrators (RAs) for Veterans' Employment and Training and that each RA appointed after the enactment of this bill be a veteran. Current law stipulates that the Secretary of Labor shall maintain a number of VETS regional offices equal to the regional offices maintained by the Department of Labor's Employment and Training Administration (ETA). Accordingly, there are currently 10 VETS RAs. VETS operated effectively in the 1980s with seven regional offices. The ability to reorganize and reduce the number of RAs would permit the ASVET to efficiently manage consolidation while assuring a performance-centered reinvention of VETS. The Committee is confident that this change will not adversely affect the quality of services to veterans. The administration supports this provision.

Section 201 considers an additional recommendation to require that Regional Administrators be veterans. This requirement is consistent with similar requirements for State and Assistant State Directors, as well as for the Disabled Veterans Outreach Specialists (DVOPs).

Section 202 is an effort to further enable the ASVET to improve the quality of employment and training services with current staffing levels, and would allow a redefinition of the duties of support personnel assigned to State Directors for Veterans' Employment and Training (DVET). This would broaden the position description to include other kinds of veterans employment program support, thus expanding the job position beyond just clerical duties. Because of automation, many offices are increasingly able to operate effectively without the utilization of a full-time clerical assistant thus freeing that employee to assist with more substantive job development-related assignments. This would allow the ASVET to retain

a knowledgeable and productive staff support system while improving services.

Section 203 would change the residency requirement for the position of State or Assistant State Director for veterans employment. Under current law, an individual must have been a resident of a State for at least two years to qualify for the position of State or Assistant State Director of Veterans' Employment and Training. Originally, it was deemed appropriate that the Director (DVET) and the Assistant Director (ADVET) be a State resident because it was assumed State residents would be familiar with the State's economy, employment system, and the individuals in State and local governments who would contribute to the successful employment of veterans in that State. While those were pertinent considerations, modern management demands human resource management skills, familiarity with modern labor exchange technologies, and knowledge of the laws and regulations governing veterans employment, reemployment, and training programs. These are qualities that are not dependent on State residency for successful implementation, and have become dominant factors in the private sector.

It is apparent that the residency requirement is no longer the over-riding job qualification, and in fact, may restrict the ASVET's ability to hire the most qualified individual in this essential position.

The Committee bill would maintain the two-year requirement except that individuals who have served as Directors or Assistant Directors for at least two years may be eligible for appointment as Director or Assistant Director in any State.

As vacancies occur throughout the country during VETS downsizing, Directors and Assistant Directors in one particular State may transfer or be transferred, at the direction of the ASVET, to another State in to fill a Director's position if a suitable candidate is not found in the state experiencing a vacancy. This provision would be in keeping with job qualifications of other federal positions, none of which require any sort of residency requirements. This provision affords the ASVET the flexibility necessary to maintain an orderly and sustainable system of qualified State and Assistant State Directors throughout the nation.

*Pilot program to integrate and streamline functions of LVERS*

Section 204 of the bill would authorize the Secretary of Labor to conduct a pilot program to investigate methods of service delivery to veterans. Recent labor and employment consolidation legislation is forcing the Department of Labor to institute changes in the employment system.

The legislation authorizes a pilot program in no more than five States. As part of the pilot program, VETS could modify the primary Title 38 responsibilities of Local Veterans Employment Representatives (LVERs) to focus on case management of direct employment and training services to veterans. The pilot will test the effectiveness of the case management system. This will also test the level of services provided to veterans by the State Employment Security Agencies, or new delivery models such as the "one-stop shop" models of employment services as determined by each of the States. The legislation further requires DOL to report to Congress

on the effect this redirection of responsibility has on the timeliness and quality of employment and training services to veterans.

The importance of the pilot program and the successful achievement of the goals necessary for VETS to conduct business within the evolving employment system are of great concern to the Committee. The Committee will watch closely the development of the pilot program and will expect regular, informal briefings beginning no later than six months into the implementation period of the pilot program.

During Subcommittee mark-up on September 7, Rep. Maxine Waters, Ranking Member, proposed an amendment to the Committee bill suggesting clarifying language to the pilot program provision. The amendment was incorporated into the bill.

#### TITLE III—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF THE UNIFORMED SERVICES

The provisions of Federal law included in chapter 43, title 38, United States Code, safeguarded the employment and reemployment rights of members of the uniformed services for over fifty years. Although the law effectively served the interests of veterans, members of the Selected Reserve, the Armed Forces, and the employer community, the statute was complex and sometimes ambiguous. Accordingly, in 1994, the Committee revised chapter 43 in order to clarify, simplify, and, where necessary, strengthen the existing veterans' employment and reemployment rights provisions. The measure that accomplished these goals, Public Law 103-353, the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), was signed into law on October 13, 1994.

Because of the complex and technical nature of P.L. 103-353, the Committee anticipated that, as the law was implemented, minor problems would arise and technical and clarifying amendments would be necessary. Title III of H.R. 2289 responds to the issues and concerns that have thus far been brought to the attention of the Committee. This title is based on H.R. 1941, a bill introduced by the Honorable G. V. (Sonny) Montgomery on June 28, 1995, to make clarifying and technical amendments to further clarify the employment and reemployment rights and responsibilities of members of the uniformed services, as well as those of the employer community. H.R. 1941 was largely derived from recommendations transmitted to Mr. Montgomery from the Honorable Robert Reich, Secretary of Labor.

A working group, which included representatives of the Departments of Labor and Defense and the Office of Personnel Management, jointly prepared the Administration's suggested amendments. The Committee wants to express its sincere appreciation to all those in the Executive branch who worked closely with Committee staff to develop this explanatory legislation.

There are provisions in Title III that should be particularly noted. Section 303 of the Committee bill would clarify that under section 4311, title 38, USC, the standard and burden of proof provisions included in this section apply to both the anti-reprisal and anti-discrimination provisions.

Section 304(a) of H.R. 2289 would amend section 4312(a) of title 38, USC, to clarify that protection under chapter 43 covers not only

the period of uniformed service but also the period prior to actually entering service, to the extent such time is necessary to prepare for entering uniformed service or for traveling to the military service site.

Section 304(b) of the reported bill would clarify that the types of military service which do not count toward an individual's five-year service limit include service performed by a member of a uniformed service who is ordered to or retained on active duty under any provision of law because of a war or national emergency declared by the President or the Congress. As currently written, the law provides service exemption to those individuals whose service is during, but is in no way related to, a war or national emergency. This was not the intent of Congress.

Section 304(d) would amend chapter 43 to change references to sections in title 10, USC. This is made necessary by the renumbering of title 10 sections in the Defense Authorization Act for Fiscal Year 1995.

Section 305 of the reported bill would ensure that a returning servicemember, who is not qualified for his or her escalator or pre-service position because of reasons other than a disability incurred in or aggravated during military service, would be entitled to another position for which he or she is qualified that is the nearest approximation to the position for which the servicemember otherwise would have been entitled.

Section 306 of the reported bill would clarify that an election to use accrued vacation of annual or similar leave during the period of service rests solely with the servicemember to use such leave.

Section 309 of the Committee bill would amend section 4322, title 38, USC, to clarify the mission of the Department of Labor (DOL) in the case-resolution process. It would also clarify that USERRA continues case processing procedures that existed under the previous veterans' reemployment rights law whereby any case, including those the Department had found to be non-meritorious, was referred to the U.S. Attorney if the claimant requested referral. Additionally, this section would emphasize the special role assigned to the Office of Personnel Management in providing assistance to Federal employees under Chapter 43.

Section 313 of the reported measure would clarify that DOL investigators have the right to interview individuals who may have information relevant to their investigation. Current law does specifically grant access to documents but does not specifically grant investigators the right to interview individuals. Similar language granting investigators the right to question individuals is included in the Fair Labor Standards Act and the Employee Retirement Income Security Act, both of which are also administered by the DOL. It is the Committee's view that this right is necessary in order to ensure a fair and thorough investigation of a case.

Section 314 of the reported bill would clarify that under the transition rules of USERRA, section 8(a), service performed prior to December 12, 1994 under orders issued pursuant to 5 USC Section 502(f), would be considered for service limitation purposes under prior law while any such service performed on and after December 12, 1994 shall be considered under section 4312(c) of USERRA. This amendment would not affect military service performed pursu-

ant to any other provisions of titles 10 or 32 of the United States Code.

Section 315 of the Committee bill would make all of the amendments of Title III effective as of October 13, 1994, the original effective date of USERRA, except for the amendments made by section 304(d) which shall be effective as of December 1, 1994.

#### SECTION-BY-SECTION ANALYSIS

Section 1 would designate this Act as the “Veterans Housing, Employment Programs, and Employment Rights Benefits Act of 1995”.

Section 2 would specify that the expression of any amendment or repeal in this Act would refer to title 38, United States Code, unless otherwise expressly provided.

Section 101(a) would amend section 3703(c)(4) of title 38, United States Code, to permanently extend the Secretary’s authority to permit a veteran to negotiate interest rates on loans obtained under the VA Home Loan Guaranty Program.

Section 101(b) would amend section 3710(d) of title 38, United States Code, to permanently extend the Secretary’s authority to guarantee energy efficient mortgages.

Section 101(c) would amend section 3720(h)(2) of title 38, United States Code, to extend until December 31, 2000, the Secretary’s authority to issue and guarantee securities backed by VA mortgages.

Section 101(d) would amend section 3731(f) of title 38, United States Code, to permanently extend the Secretary’s authority to authorize lenders of automatically guaranteed loans to review appraisals.

Section 101(e) would amend section 3735(c) of title 38, United States Code, to permanently extend the Secretary’s authority to provide housing assistance to homeless veterans.

Section 102(a) would add section 3736 to title 38, United States Code, and codify the Secretary’s requirement to include in the annual report required by section 529 of title 38, United States Code, every second year, a discussion regarding the programs identified in Section 101 of this Act.

Section 102(b) would strike sections 2(c), 3(b), 8(d), 9(c) and 10(b) of The Veterans Home Loan Program Amendments of 1992 (Public Law 102–547) to repeal superseded reporting requirements.

Section 103(a) would amend section 738(e)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11448(e)(1)) to authorize an annual appropriation of \$10,000,000 for fiscal years 1996–1998.

Section 103(b) would amend section 739(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11448(a)) to extend the Secretary’s authority until 1998 to authorize general appropriations under such Act.

Section 103(c) would amend section 741 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11450) to extend until October 1, 1998, the Homeless Veterans Employment Program.

Section 201 would amend section 4102A(e) of title 38, United States Code, to require the Secretary of Labor to maintain no fewer than five Veterans’ Employment and Training Service (VETS) re-

gional offices, and require that each VETS Regional Administrator appointed after the date of enactment of this Act be a veteran.

Section 202 would amend section 4103(a) of title 38, United States Code, to require the Secretary to expand the duties of certain state-based clerical positions to include other kinds of veterans employment program responsibilities.

Section 203 would amend section 4103(b)(1) of title 38, United States Code, to require the Secretary to maintain the two-year residency requirement for Directors and Assistant Directors for Veterans' Employment and Training, but allow individuals who have served in such capacity for at least two years, to be appointed to either position in any state.

Section 204(a) would authorize the Secretary of Labor to conduct a pilot program under which the primary responsibilities of the Local Veterans' Employment Representatives would be case management and the provision of direct employment and training services to veterans.

Section 204(b) would authorize the Secretary to suspend or limit application of those provisions of chapter 41 that would otherwise apply to participants in the pilot program.

Section 204(c) would require the Secretary to prioritize eligible veterans for participation in the pilot program.

Section 204(d) would require the Secretary to limit participation in the pilot program to not more than five states.

Section 204(e) would require the Secretary to submit an interim and final report to Congress on the pilot program.

Section 204(f) would provide definitions for the purpose of this section.

Section 204(g) would provide authorization for the appropriation, in the States designated by the Secretary of Labor, of amounts allocated to such States under section 4102A(b)(5) of title 38, United States Code, for fiscal years 1996-1998.

Section 204(h) would provide for the expiration of this pilot program on October 1, 1998.

Section 301 would amend section 4301(a)(2) of title 38, United States Code, to clarify the purpose of chapter 43.

Section 302 would amend section 4303(16) of title 38, United States Code, to clarify the definition of "uniformed services".

Section 303 would amend section 4311 of title 38, United States Code, to clarify that the standard and burden of proof provisions included in this section would apply to both the anti-reprisal and anti-discrimination provisions.

Section 304(a) would amend section 4312(a) of title 38, United States Code, to clarify that the time during which an individual is entitled to reemployment rights and benefits includes preparation and travel time prior to service.

Section 304(b) would amend section 4312(c)(4)(B) of title 38, United States Code, to clarify that a person ordered to or retained on active duty because of a war or a national emergency would be exempt from the five-year cumulative length of absence limitation under such section.

Section 304(c) would amend section 4312(d)(2)(C) of title 38, United States Code, to clarify an employer's duty to rehire during brief, non-recurrent periods of service.

Section 304(d) would amend section 4312(c) of title 38, United States Code, to provide conforming amendments to redesignations in title 10, United States Code.

Section 305 would amend section 4313(a)(4) of title 38, United States Code, to make clarifications regarding reemployment positions.

Section 306 would amend section 4316(d) of title 38, United States Code, to clarify that an employer may not require a person whose employment is interrupted by a period of service in the uniformed service to use vacation, annual or similar leave during such a period.

Section 307 would amend section 4317(a) of title 38, United States Code, to make technical corrections relating to health plans.

Section 308 would amend section 4318(b)(2) of title 38, United States Code, to make technical corrections relating to employee pension benefit plans.

Section 309(a) would amend section 4322(d) of title 38, United States Code, to make a technical correction relating to enforcement of employment or reemployment rights.

Section 309(b) would amend section 4322(e) of title 38, United States Code, to make a technical correction relating to the Secretary's requirement to notify a claimant of an unresolved complaint.

Section 310 would amend section 4323(a) of title 38, United States Code, to make a technical correction relating to enforcement of rights with respect to a state or private employer.

Section 311(a) would amend section 4324(a)(1) of title 38, United States Code, to make a technical correction relating to the Secretary's requirement to refer complaints for litigation to the Office of Special Counsel.

Section 311(b) would amend section 4324(b) of title 38, United States Code, to make technical corrections relating to alternative submission of complaints and enforcement of rights with respect to federal executive agencies.

Section 311(c) would amend section 4324(c)(2) of title 38, United States Code, to make technical corrections relating to relief and enforcement of rights with respect to federal executive agencies.

Section 312 would amend section 4325(d)(1) of title 38, United States Code, to make technical corrections relating to enforcement of rights with respect to certain federal agencies.

Section 313 would amend section 4326(a) of title 38, United States Code, to make technical corrections relating to the conduct of an investigation under this chapter.

Section 314(a) would amend section 8(a) of the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. 4301 note), to clarify transition rules of USERRA for service limitation purposes.

Section 315 would make all amendments included in Title III of this Act effective October 13, 1994, except for the amendments made by section 304(d) of this title which would be effective December 1, 1994.

OVERSIGHT FINDINGS

No oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 5, 1995.*

Hon. BOB STUMP,  
*Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate on H.R. 2289, the Veterans Housing and Educational Benefits Act of 1995, as ordered reported by the House Committee on Veterans' Affairs on September 20, 1995.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,  
*Director.*

Enclosure:

CBO COST ESTIMATE

1. Bill number: H.R. 2289
2. Bill title: Veterans Housing and Educational Benefits Act of 1995.
3. Bill status: As ordered reported by the House Committee on Veterans' Affairs on September 20, 1995.
4. Bill purpose: The bill would permanently extend certain housing programs, improve the veterans employment and training system, and further clarify the employment and reemployment rights and responsibilities of members of the uniformed services.
5. Estimated cost to the federal government:

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
<b>DIRECT SPENDING</b>						
Spending Under Current Law:						
Estimated budget authority .....	32	-1	0	0	0	0
Estimated outlays .....	32	-1	0	0	0	0
Proposed Changes:						
Estimated budget authority .....	0	32	28	25	24	24
Estimated outlays .....	0	32	28	25	24	24
Spending Under the Bill:						
Estimated budget authority .....	32	31	28	25	24	24
Estimated outlays .....	32	31	28	25	24	24
<b>SPENDING SUBJECT TO APPROPRIATIONS ACTION</b>						
Spending Under Current Law:						
Budget authority <sup>1</sup> .....	5	0	0	0	0	0

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Estimated outlays .....	12	7	2	0	0	0
Proposed Changes:						
Estimated authorization level .....	0	12	12	12	2	2
Estimated outlays .....	0	3	7	12	11	5
Spending Under the Bill:						
Estimated authorization level <sup>1</sup> .....	5	12	12	12	2	2
Estimated outlays .....	12	10	9	12	11	5

<sup>1</sup> The 1995 figure is the amount already appropriated.

**6. Basis of estimate:** The estimate assumes enactment of the bill and appropriation of the authorized amounts for each fiscal year. CBO used historical spending rates for estimating outlays. The following section-by-section cost analysis addresses only those sections of the bill that would have a significant budgetary impact.

#### *Direct spending*

The bill contains three provisions that would affect direct spending.

**ADJUSTABLE-RATE MORTGAGES.** Section 101(b) would give VA authority to guarantee adjustable-rate mortgages (ARMs); previous authority expired on September 30, 1995. CBO estimates that this permanent extension would cost \$36 million in 1996 and \$29 million in 2000.

Adjustable-rate mortgages involve a greater subsidy cost to the federal government than fixed-rate mortgages (FRMS) because they have a higher likelihood of default. ARMs are more risky than FRMS, not only because interest rates can rise, but because home buyers with a given amount of income can usually qualify to borrow more money with an ARM than with a FRM, thereby becoming more financially leveraged. Thus, the borrowers with the greatest risk can opt for an ARM over a FRM. This greater risk results in higher delinquency and foreclosure rates.

CBO bases its estimate on recent loan delinquencies reported by the Federal National Mortgage Association (Fannie Mae), the federal agency that has the most experience tracking the performance of adjustable-rate mortgages. Although data regarding the rate at which Fannie Mae forecloses on mortgages are not available, the delinquency rate for the ARMs Fannie Mae had purchased has been almost 2.5 times that of fixed-rate mortgages over the past 12 months. Because of VA's supplemental servicing program, the easy conversion option to a fixed-rate program, and the lower cap on annual interest rate increases (1 percent compared to 2 percent for Fannie Mae), the difference in foreclosure rates between VA ARMs and FRM is likely to be less than the difference in delinquency rates between Fannie Mae ARMs and FRMS. CBO estimates that VA ARMs have a foreclosure rate 1.75 times the rate for VA FRMS. We also assume that the percentage of ARMS guaranteed by VA would be the same as it was in 1994, about 12 percent of all VA originations. Based on a baseline foreclosure rate of 10.3 percent for FRMs for 1996, the estimated foreclosure rate for VA ARMs would be 18 percent. Thus, the subsidy cost for VA ARM loans would average about \$31 million annually on an average annual volume of 21,000 loans.

VA has had the authority to guarantee ARMs only since 1993, and as a result, the available data are not very useful for projecting defaults. Recent data from the Federal Housing Administration (FHA), the model for the VA ARM program, shows that the ARMs it guarantees have foreclosure rates similar to those of FRMs it guarantees. Nevertheless, there is strong reason to believe that this is a short-term phenomenon and that FHA ARMS, like Fannie Mae ARMS, will prove to have higher foreclosure rates than FRMS. First, the data from FHA are too sparse to use for estimating relative foreclosure rates. FHA has been guaranteeing ARMs for ten years but only in the last few years have these loans made up a significant portion of FHA's originations. Second, during this period, mortgage rates have been relatively stable and quite low by historical standards.

**ENHANCED AUTHORITY TO SELL LOAN ASSETS.** Section 101(d) would extend through September 30, 2000, the authority of the Secretary of Veterans Affairs to guarantee the real estate mortgage investment conduits (REMICs) that are used to market vendee loans. Vendee loans are issued to the buyers of properties that VA acquired through foreclosures. VA then sells these loans on the secondary mortgage market using REMICS. By guaranteeing the certificates issued on a pool of loans VA obtains a better price but also assumes risk.

CBO estimates that this provision would save about \$5 million a year based on sales of \$1.3 billion. If this provision were not enacted VA could market vendee loans under other provisions of law. Nevertheless, this provision would permit VA to realize a better price for a package of vendee loans than if it used a REMIC program of the Government National Mortgage Association. Data indicate that this provision would raise receipts by about 0.4 percent of sales.

**NEGOTIATED INTEREST RATE.** Prior to 1993, VA set an interest rate ceiling on loans it guaranteed. The ceiling was administered to ensure an ample supply of low-cost funds at rates near or below market interest rates. When the ceiling was set too low relative to market interest rates, lenders would try to compensate by charging discount points that by law only the seller could pay. When sellers refused, veterans were unable to purchase the homes they wanted.

Under section 101(a), veterans could negotiate a higher interest rate with lenders participating in the VA mortgage program to avoid paying discount points. Allowing veterans to negotiate interest rates may result in additional loan originations and a somewhat greater risk of foreclosure, but CBO cannot estimate the subsidy costs of this provision.

*Spending subject to appropriations action*

The bill has two provisions that would affect authorizations of appropriations.

**JOB TRAINING FOR HOMELESS VETERANS.** Section 103 would authorize appropriations for the Homeless Veterans Job Training Program. The provision specifies an authorization level of \$10 million per year for 1996, 1997, and 1998.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Authorization level .....	10	10	10	0	0
Estimated outlays .....	1	5	10	9	3

SUPPORT STAFF FOR EMPLOYMENT AND TRAINING. Section 202 would allow the Department of Labor (DOL) to provide additional support personnel to its state offices concerned with veterans employment and training. Currently the directors of these offices are only provided full-time clerical support. Because DOL plans to require the directors to conduct analyses and studies, additional support personnel could be required at each of 52 locations. According to DOL, the average pay grade of its clerical personnel is GS-6. One additional person at a pay grade in the range of GS-6 to GS-9 for each of the directors would cost about \$2 million a year.

DOL has not determined how many personnel, if any, it will assign to these offices. Furthermore, the grade level of additional support personnel could be higher based on the technical nature of their tasks. Consequently, actual costs could be higher or lower.

7. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. The bill would have the following pay-as-you-go impact:

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays .....	32	28	25
Change in receipts .....		Not applicable	

- 8. Estimated cost to state and local governments: None.
- 9. Estimate comparison: None.
- 10. Previous CBO estimate: None.
- 11. Estimate prepared by: Victoria L. Fraider, Michael Groarke, Amy Plapp, and Christina Hawley.
- 12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

The enactment of the reported bill (would, or) would have no inflationary impact.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

**TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

**PART III—READJUSTMENT AND RELATED BENEFITS**

\* \* \* \* \*

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

SUBCHAPTER I—GENERAL

- Sec.
  - 3701. Definitions.
  - 3702. Basic entitlement.
- \* \* \* \* \*

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

- 3720. Powers of Secretary.
  - 3721. Incontestability.
  - 3736. Reporting requirements.
- \* \* \* \* \*

SUBCHAPTER I—GENERAL

\* \* \* \* \*

**§ 3703. Basic provisions relating to loan guaranty and insurance**

- (a) \* \* \*
  - (c)(1) \* \* \*
  - (4)(A) \* \* \*
  - [(D) This paragraph shall expire on December 31, 1995.]
- \* \* \* \* \*

**§ 3707. Adjustable rate mortgages**

(a) The Secretary shall carry out a [demonstration project under this section during fiscal years 1993, 1994, and 1995] *program under this section* for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

\* \* \* \* \*

SUBCHAPTER II—LOANS

**§ 3710. Purchase or construction of homes**

- (a) \* \* \*
- (d)(1) The Secretary shall carry out a program [to demonstrate the feasibility of guaranteeing] *to guarantee* loans for the acquisition of an existing dwelling and the cost of making energy effi-

ciency improvements to the dwelling or for energy efficiency improvements to a dwelling owned and occupied by a veteran. A loan may be guaranteed under this subsection only if it meets the requirements of this chapter, except as those requirements are modified by this subsection.

\* \* \* \* \*  
[(7) A loan may not be guaranteed under this subsection after December 31, 1995.]

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

**§ 3720. Powers of Secretary**

(a) \* \* \*

\* \* \* \* \*  
(h)(1) \* \* \*

(2) The Secretary may not under this subsection guarantee the payment of principal and interest on certificates or other securities issued or approved after December 31, [1995] 2000.

**§ 3731. Appraisals**

(a) \* \* \*

\* \* \* \* \*  
(f)(1) \* \* \*

\* \* \* \* \*  
[(3) The authority provided in this subsection shall terminate on December 31, 1995.

[(4) Not later than April 30 of each year following a year in which the Secretary authorizes lenders to determine reasonable value of property under this subsection, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report relating to the exercise of that authority during the year in which the authority was exercised.

[(5) A report submitted pursuant to paragraph (4) of this subsection shall include, for the period covered by each report—

[(A) the number and value of loans made by lenders exercising the authority of this subsection;

[(B) the number and value of such loans reviewed by the appraisal-review monitors referred to in paragraph (2) of this subsection;

[(C) the number and value of loans made under this subsection of which the Secretary received notification of default;

[(D) the amount of guaranty paid by the Secretary to such lenders by reason of defaults on loans as to which reasonable value was determined under this subsection; and

[(E) such recommendations as the Secretary considers appropriate to improve the exercise of the authority provided for

in this subsection and to protect the interests of the United States.]

\* \* \* \* \*

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

(a) \* \* \*

\* \* \* \* \*

[(c) The Secretary may not enter into agreements under subsection (a) after December 31, 1995.]

**§ 3736. Reporting requirements**

(a) *The annual report required by section 529 of this title shall include a discussion of the activities under this chapter. Beginning with the report submitted at the close of fiscal year 1996, and every second year thereafter, this discussion shall include information regarding the following:*

- (1) *Loans made to veterans whose only qualifying service was in the Selected Reserve.*
- (2) *Interest rates and discount points which were negotiated between the lender and the veteran pursuant to section 3703(c)(4)(A)(i) of this title.*
- (3) *Loans made with adjustable rates guaranteed pursuant to section 3707 of this title.*
- (4) *The determination of reasonable value by lenders pursuant to section 3731(f) of this title.*
- (5) *Loans that include funds for energy efficiency improvements pursuant to section 3710(a)(10) of this title.*
- (6) *Direct loans to Native American veterans made pursuant to subchapter V of this chapter.*

\* \* \* \* \*

**CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS**

\* \* \* \* \*

**§ 4102A. Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators**

(a) \* \* \*

\* \* \* \* \*

(e)[(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Administrator for Veterans' Employment and Training in such region.] (1) *The Secretary of Labor shall assign regional administrators for Veterans' Employment and Training in such regions, which may not be less than five in number, as the Secretary may determine are necessary for the effective administration of the Veterans' Employment and Training Service. Each regional administrator appointed after the date of the enactment of the Veterans Housing and Employment Rights Benefits Act of 1994 shall be a veteran.*

\* \* \* \* \*

**§4103. Directors and Assistant Directors for Veterans' Employment and Training**

(a) The Secretary shall assign to each State a representative of the Veterans' Employment Service to serve as the Director for Veterans' Employment and Training, and shall assign **[full-time Federal clerical support]** *full-time Federal clerical or other support personnel* to each such Director. The Secretary shall also assign to each State one Assistant Director for Veterans' Employment and Training per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant Directors for Veterans' Employment and Training as the Secretary shall determine, based on the data collected pursuant to section 4107 of this title, to be necessary to assist the Director for Veterans' Employment and Training to carry out effectively in that State the purposes of this chapter. **[Full-time Federal clerical support personnel]** *Full-time Federal clerical or other support personnel* assigned to Directors for Veterans' Employment and Training shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(b)(1)(A) Each Director for Veterans' Employment and Training and Assistant Director for Veterans' Employment and Training (i) shall, except as provided in subparagraph (B) of this paragraph, be a qualified veteran who at the time of appointment has been a bona fide resident of the State for at least two years, and (ii) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

**[(B) If, in appointing a Director or Assistant Director for any State under this section, the Secretary determines that there is no qualified veteran available who meets the residency requirement in subparagraph (A)(i), the Secretary may appoint as such Director or Assistant Director any qualified veteran.]**

*(B) A person who serves in the position of Director for Veterans' Employment and Training or Assistant Director of Veterans' Employment Training for any State for not less than two years is eligible for appointment as such a Director or Assistant Director for any State, regardless of the period of the person's residence in that State.*

\* \* \* \* \*

**CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES**

\* \* \* \* \*

SUBCHAPTER I—GENERAL

**§ 4301. Purposes; sense of Congress**

(a) The purposes of this chapter are—

(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service [under honorable conditions]; and

\* \* \* \* \*

**§ 4303. Definitions**

For the purposes of this chapter—

(1) \* \* \*

\* \* \* \* \*

(16) The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or *national* emergency.

\* \* \* \* \*

SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

**§ 4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited**

(a) \* \* \*

[(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person’s membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer’s action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, performance of service, application for service, or obligation.]

[(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.]

[(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services and shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C).]

*(b) An employer may not discriminate in employment against or take any adverse employment action against any person because*

such person (1) has taken an action to enforce a protection afforded any person under this chapter, (2) has testified or otherwise made a statement in or in connection with any proceeding under this chapter, (3) has assisted or otherwise participated in an investigation under this chapter, or (4) has exercised a right provided for in this chapter. The prohibition in this subsection shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

(c) An employer shall be considered to have engaged in actions prohibited—

(1) under subsection (a), if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, service, application for service, or obligation for service; or

(2) under subsection (b), if the person's (A) action to enforce a protection afforded any person under this chapter, (B) testimony or making of a statement in or in connection with any proceeding under this chapter, (C) assistance or other participation in an investigation under this chapter, or (D) exercise of a right provided for in this chapter, is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such person's enforcement action, testimony, statement, assistance, participation, or exercise of a right.

(d) The prohibitions in subsections (a) and (b) shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C).

**§4312. Reemployment rights of persons who serve in the uniformed services**

(a) Subject to subsections (b), (c), and (d) and to section 4304, any person [who is absent from a position of employment] whose absence from a position of employment is necessitated by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

(1) \* \* \*

\* \* \* \* \*

(c) Subsection (a) shall apply to a person who is absent from a position of employment by reason of service in the uniformed services if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

(1) \* \* \*

\* \* \* \* \*

(3) performed as required pursuant to section [270] 10147 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for profes-

sional development, or for completion of skill training or re-training; or

(4) performed by a member of a uniformed service who is—  
 (A) ordered to or retained on active duty under section [672(a), 672(g), 673, 673b, 673c, or 688] 688, 12301(a), 12301(g), 12302, 12304, or 12305 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

[(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;]

*(B) ordered to or retained on active duty (other than for training) under any provision of law because of a war or because of a national emergency declared by the President or the Congress as determined by the Secretary concerned;*

(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section [673b] 12304 of title 10;

(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section [3500 or 8500] 12406 of title 10.

(d)(1) \* \* \*

(2) In any proceeding involving an issue of whether—

(A) \* \* \*

\* \* \* \* \*

(C) the employment referred to in paragraph (1)(C) [is brief or for a nonrecurrent period and without a reasonable expectation] *is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period,*

the employer shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period.

\* \* \* \* \*

**§ 4313. Reemployment positions**

(a) Subject to subsection (b) (in the case of any employee) and sections 4314 and 4315 (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312, upon completion of a period of service in the uniformed services, shall be promptly reemployed in a position of employment in accordance with the following order of priority:

(1) \* \* \*

\* \* \* \* \*

(4) In the case of a person who (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment of

such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the [uniform] *uniformed* services for any reason (other than disability incurred in, or aggravated during, service in the uniformed services), and (B) cannot become qualified with reasonable efforts by the employer, in any other position [of lesser status and pay which] *which is the nearest approximation to a position referred to first in clause (A)(i) and then in clause (A)(ii) which such person is qualified to perform, with full seniority.*

\* \* \* \* \*

**§4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service**

(a) \* \* \*

\* \* \* \* \*

(d) Any person whose employment with an employer is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service. *No employer may require any such person to use vacation, annual or similar leave during such period of service.*

**§4317. Health plans**

[(a)(1)(A) Subject to paragraphs (2) and (3), in] *(a)(1) In any case in which a person (or the person's dependents) has coverage under a health plan in connection with the person's position of employment, including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), and such person is absent from such position of employment by reason of service in the uniformed services, the plan shall provide that the person may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and the person's dependents under such an election shall be the lesser of—*

[(i)] *(A) the 18-month period beginning on the date on which the person's absence begins; or*

[(ii)] *(B) the day after the date on which the person fails to apply for or return to a position of employment, as determined under section 4312(e).*

[(B)] *(2) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium under the plan (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986) associated with such coverage for the employer's other employees, except that in the case of a person who performs service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.*

[(C)] *(3) In the case of a health plan that is a multiemployer plan, as defined in section 3(37) of the Employee Retirement In-*

come Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated—

[(i)] (A) by the plan in such manner as the plan sponsor shall provide; or

[(ii)] (B) if the sponsor does not provide—

[(I)] (i) to the last employer employing the person before the period served by the person in the uniformed services, or

[(II)] (ii) if such last employer is no longer functional, to the plan.

\* \* \* \* \*

**§ 4318. Employee pension benefit plans**

(a) \* \* \*

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

(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services, such payment period not to exceed five years.

\* \* \* \* \*

SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

\* \* \* \* \*

**§ 4322. Enforcement of employment or reemployment rights**

(a) \* \* \*

\* \* \* \* \*

(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

(e) If the efforts of the Secretary [with respect to a complaint under subsection (d) are unsuccessful,] with respect to any complaint filed under subsection (a) do not resolve the complaint, the Secretary shall notify the person who submitted the complaint of—

(1) the results of the Secretary's investigation; and

(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4323 (in the case of a person submitting a complaint against a State or private employer) or section 4324 (in the case of a person submitting a complaint against a Federal executive agency or the Office of Personnel Management).

\* \* \* \* \*

**§ 4323. Enforcement of rights with respect to a State or private employer**

(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) [of an unsuccessful effort to resolve a complaint] relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court.

(2) A person may commence an action for relief with respect to a complaint if that person—

(A) has chosen not to apply to the Secretary for assistance [regarding the complaint under section 4322(c)] under section 4322(a);

\* \* \* \* \*

**§ 4324. Enforcement of rights with respect to Federal executive agencies**

(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) [of an unsuccessful effort to resolve a complaint relating to a Federal executive agency] may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

\* \* \* \* \*

(b) A person may submit a complaint against a Federal executive agency or the Office of Personnel Management under this subchapter directly to the Merit Systems Protection Board if that person—

(1) has chosen not to apply to the Secretary for assistance [regarding a complaint under section 4322(c)] under section 4322(a);

\* \* \* \* \*

(c)(1) \* \* \*

(2) If the Board determines that a Federal executive agency or the Office of Personnel Management has not complied with the provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or [employee] Office to comply with such provisions

and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

\* \* \* \* \*

**§ 4325. Enforcement of rights with respect to certain Federal agencies**

(a) \* \* \*

\* \* \* \* \*

(d) This section may not be construed—

(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter[, alternative employment in the Federal Government under this chapter,] or information relating to the rights and obligations of [employee] *employees* and Federal agencies under this chapter; or

\* \* \* \* \*

**§ 4326. Conduct of investigation; subpoenas**

(a) In carrying out any investigation under this chapter, the Secretary's duly authorized representatives shall, at all reasonable times, *have reasonable access to and the right to interview persons with information relevant to the investigation and shall have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Secretary considers relevant to the investigation.*

\* \* \* \* \*

---

**VETERANS HOME LOAN PROGRAM AMENDMENTS OF 1992**

\* \* \* \* \*

**SEC. 2. ELIGIBILITY OF SELECTED RESERVE.**

(a) \* \* \*

\* \* \* \* \*

[(c) REPORT.—The Secretary of Veterans Affairs shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1994, and annually thereafter. The report shall contain—

[(1) a declaration of the number of veterans (as defined by section 3701(b)(5) of title 38, United States Code) who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a);

[(2) a comparison of the default rate of veterans described in paragraph (1) with the default rate for all other veterans who have received loans guaranteed or insured by the Secretary; and

[(3) a comparison of the proportion of veterans who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a) who are first time home-

buyers with the proportion of all other veterans who receive mortgage loans guaranteed or insured by the Secretary and who are first time homebuyers.]

**SEC. 3. ADJUSTABLE RATE MORTGAGE DEMONSTRATION PROGRAM.**

(a) \* \* \*

[(b) REPORT.—The Secretary shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1993, containing a description of the project carried out under section 3707 of title 38, United States Code (as added by subsection (a)), and shall continue to make annual reports to the Committees with respect to the default rate and other information concerning the loans guaranteed under such section. Such reports shall—

[(1) compare the number of adjustable rate mortgages guaranteed under such section with the number of fixed rate loans guaranteed or insured under chapter 37 of such title and contrast this ratio with a corresponding ratio for loans for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act;

[(2) compare the initial interest rate of the adjustable rate mortgages guaranteed under such section with the fixed interest rate on loans guaranteed or insured under chapter 37 of such title;

[(3) describe the monthly mortgage payment savings to the veteran, if any, under an adjustable rate mortgage guaranteed under such section compared with the payments that would have been required if the loan bore interest at a maximum fixed rate established by the Secretary;

[(4) discuss whether the market share for housing loans guaranteed under chapter 37 of such title has increased or decreased since the implementation of such section;

[(5) compare the default rate on mortgages guaranteed under such section with the default rate of fixed-rate mortgages guaranteed or insured under chapter 37 of such title; and

[(6) compare the number of first time homebuyers using adjustable rate mortgage loans under such section with the number of first time homebuyers using any other loan guaranteed under chapter 37 of such title.]

\* \* \* \* \*

**SEC. 8. NATIVE AMERICAN VETERANS DIRECT HOUSING LOAN PILOT PROGRAM.**

(a) \* \* \*

\* \* \* \* \*

[(d) ANNUAL REPORTS.—Not later than February 1 of each of 1994 through 1998, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report relating to—

[(1) the implementation of the Native American veterans direct housing loan pilot program established under subchapter V of chapter 37 of title 38, United States Code (as added by

subsection (a)), during the period ending on September 30 of the year preceding the date of the report;

[(2) the Secretary's exercise of the authority provided under section 3762(c)(1)(B) of such title (as so added) to make loans exceeding the maximum loan amount;

[(3) the appraisals performed for the Secretary during that period under the authority of section 3732(d)(2) of such title (as so added), including a description of—

[(A) the manner in which such appraisals were performed;

[(B) the qualifications of the appraisers who performed such appraisals; and

[(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States; and

[(4) the Secretary's recommendations, if any, for legislation regarding the pilot program.]

\* \* \* \* \*

**SEC. 9. ENERGY EFFICIENT MORTGAGES.**

(a) \* \* \*

\* \* \* \* \*

[(c) REPORTS.—Not later than 1 year after the date on which the Secretary of Veterans Affairs first exercises the authority to guarantee loans under section 3710(d) of title 38, United States Code (as added by subsection (a) of this section), and for each of the 3 years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the program under such section. Each such report shall contain information pertaining to—

[(1) the number of mortgages guaranteed under such section;

[(2) the average amount of money added to the mortgage to finance energy efficiency features;

[(3) the types of energy efficiency features obtained with mortgages under such section; and

[(4) the default rates on the mortgages guaranteed under such section compared with the default rates on all other types of mortgages guaranteed by the Secretary.]

**SEC. 10. NEGOTIATED INTEREST RATES.**

(a) \* \* \*

[(b) REPORT.—Not later than December 31, 1993, and annually thereafter, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on whether the Secretary has implemented the authority to guarantee and insure loans that bear negotiated interest rates and points under section 3703(c)(4) of title 38, United States Code (as added by subsection (a)). If the Secretary has implemented that authority, the Secretary shall include in the report—

[(1) a comparison of the interest rates paid by veterans for loans that bear interest rates negotiated under section 3703(c)(4) of such title with interest rates allowable under

mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and interest rates charged under conventional mortgage loan programs for single family housing;

[(2) a comparison of the negotiated interest rates being charged under paragraph (4) of section 3703(c) of such title with the interest rate that the Secretary would have established under paragraph (1) of such section during the same time period;

[(3) a comparison of the number of discount points charged by the lender for mortgage loans that bear interest rates negotiated under section 3703(c)(4) of such title with the number of discount points charged for mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and the number of discount points charged under conventional mortgage loan programs for single family housing;

[(4) a discussion of the extent to which borrowers or sellers are paying the discount points on negotiated interest rate loans under section 3703(c)(4) of such title;

[(5) a discussion of whether the market share for housing loans guaranteed under such title has increased or decreased since the implementation of the authority to guarantee and insure loans that bear negotiated interest rates under section 3703(c)(4) of such title, and a discussion of the extent to which any change in market share was the result of that authority;

[(6) in claims paid following foreclosure, a discussion of the difference in the interest portion paid on loans guaranteed under section 3703(c)(4) of such title to what the interest portion would have been under the interest rate established under section 3703(c)(1) of such title; and

[(7) the number of first time homebuyers using loans that bear negotiated interest rates under section 3703(c)(4) of such title.]

\* \* \* \* \*

**STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT**

\* \* \* \* \*

**TITLE VII—EDUCATION, TRAINING, AND  
COMMUNITY SERVICES PROGRAMS**

\* \* \* \* \*

**Subtitle C—Job Training for the Homeless**

\* \* \* \* \*

**SEC. 738. HOMELESS VETERANS' REINTEGRATION PROJECTS.**

(a) \* \* \*

\* \* \* \* \*

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section the following amounts:

- (A) \$10,000,000 for fiscal year [1993] 1996.
- (B) [\$12,000,000] \$10,000,000 for fiscal year [1994] 1997.
- (C) [\$14,000,000] \$10,000,000 for fiscal year [1995] 1998.

(2) Funds obligated for any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.

**SEC. 739. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the [fiscal years 1994 and 1995] *fiscal years 1996, 1997, and 1998.*

\* \* \* \* \*

**SEC. 741. TERMINATION.**

The provisions of this subtitle other than section 738 and 740 shall terminate on October 1, [1995] 1998.

**SECTION 8 OF THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994**

**SEC. 8. TRANSITION RULES AND EFFECTIVE DATES.**

(a) REEMPLOYMENT.—(1) \* \* \*

\* \* \* \* \*

(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned. *Any service begun up to 60 days after the date of enactment of this Act, which is served up to 60 days after the date of enactment of this Act pursuant to orders issued under section 502(f) of chapter 5 of title 32, United States Code, shall be considered under chapter 43 of title 38, United States Code, as in effect on the day before such date of enactment. Any service pursuant to orders issued under section 502(f) of chapter 5 of title 32, United States Code, served after 60 days after the date of enactment of this Act, regardless of when begun, shall be considered under the amendments made by this Act.*

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniformed services that was initiated before the end of [such period]

*such 60-day period* shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

\* \* \* \* \*

(c) INSURANCE.—(1) \* \* \*

(2) With respect to the provisions of section 4317 of title 38, United States Code, as provided in the amendments made by this Act, a **[person on active duty]** *person serving a period of service in the uniformed services* on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue a health plan as provided in such section 4317. If such an election is made, the health plan shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

\* \* \* \* \*

