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VETERANS PROGRAMS IMPROVEMENT ACT OF 2011

OCTOBER 11, 2011.—Ordered to be printed

Mrs. MURRAY, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany S. 914]

The Committee on Veterans' Affairs (hereinafter, "the Committee"), to which was referred the bill (S. 914), to amend title 38, United States Code (hereinafter, "U.S.C."), to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

INTRODUCTION

On May 9, 2011, Senator Begich introduced S. 914, which would authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans. Senators Grassley and Tester are original cosponsors. The bill was referred to the Committee.

On February 3, 2011, Senator Cornyn introduced S. 269, which would designate the Department of Veterans Affairs (hereinafter, "VA" or "the Department") medical center in Big Spring, Texas, as the "George H. O'Brien, Jr., Department of Veterans Affairs Medical Center." Senator Hutchison is an original cosponsor. The bill was referred to the Committee.

On February 14, 2011, Senator Mark Udall introduced S. 327, which would designate VA's telehealth clinic in Craig, Colorado, as the "Major William Edward Adams Department of Veterans Affairs Clinic." Senator Bennet is an original cosponsor. The bill was referred to the Committee.

On February 17, 2011, Senator Klobuchar introduced S. 411, the proposed "Helping our Homeless Veterans Act of 2011." S. 411 would authorize VA to enter into agreements with States and nonprofit organizations to collaborate in the provision of case management services associated with certain supported housing programs for veterans. Senators Begich, Brown of Massachusetts, Casey, Cornyn, Inhofe, and Nelson of Florida are original cosponsors of the bill. Senators Blumenthal, Cantwell, Cardin, Coons, Durbin, Enzi,

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Hagan, Merkley, Mikulski, Murkowski, Pryor, and Tester were later added as cosponsors of the bill. The bill was referred to the Committee.

On March 1, 2011, Ranking Member Burr introduced S. 423, which would provide authority for a retroactive effective date for awards of disability compensation in connection with applications that are fully-developed at submittal. The bill was referred to the Committee.

On March 3, 2011, Senator Whitehouse introduced S. 486, the proposed "Protecting Servicemembers from Mortgage Abuses Act of 2011." S. 486 would amend the Servicemembers Civil Relief Act (hereinafter, "SCRA") to enhance protections for members of the uniformed services related to mortgages, mortgage foreclosure, and eviction. Senators Merkley, Reed, Sanders, and Tester are original cosponsors of the bill. Senators Baucus, Blumenthal, Boxer, Durbin, Feinstein, Franken, Hagan, Lautenberg, Leahy, Mikulski, Nelson of Florida, and Pryor were later added as cosponsors of the bill. The bill was referred to the Committee.

On March 9, 2011, Senator Webb introduced S. 536, which would provide that utilization of survivors' and dependents' educational assistance shall not be subject to the 48-month limitation on the aggregate amount of assistance utilizable under multiple veterans and related educational assistance programs. Senator Blumenthal was later added as a cosponsor of the bill. The bill was referred to the Committee.

On March 29, 2011, Senator Baucus introduced S. 666, the proposed "Veterans Traumatic Brain Injury Care Improvement Act of 2011." S. 666 would require VA to report on the feasibility and advisability of establishing a Polytrauma Rehabilitation Center (hereinafter, "PRC") or Polytrauma Network Site (hereinafter, "PNS") in the northern Rockies or Dakotas. Senators Conrad, Johnson of South Dakota, and Tester are original cosponsors of the bill. Senator Cantwell was later added as a cosponsor of the bill. The bill was referred to the Committee.

On March 31, 2011, Senator Tester introduced S. 696, which would treat the sites operated by the Department's Readjustment Counseling Service (hereinafter, "Vet Centers") as VA facilities for purposes of payments or allowances for beneficiary travel to Department facilities. Senators Begich, Blumenthal, Johnson of South Dakota, Moran, and Wyden were later added as cosponsors of the bill. The bill was referred to the Committee.

On March 31, 2011, Senator Warner introduced S. 698, which would codify the prohibition against the reservation of gravesites at Arlington National Cemetery (hereinafter, "ANC"). The bill was referred to the Committee.

On April 8, 2011, Senator Harkin introduced S. 769, the proposed "Veterans Equal Treatment for Service Dogs Act of 2011." S. 769 would prevent the prohibition of the use of service dogs on VA property. Senator Isakson was an original cosponsor of the bill. Senators Begich, Hagan, Leahy, Murkowski, Pryor, Stabenow, and Wyden were later added as cosponsors of the bill. The bill was referred to the Committee.

On April 13, 2011, Senator Snowe introduced S. 815, the proposed "Sanctity of Eternal Rest for Veterans Act of 2011." S. 815 would guarantee that military funerals are conducted with dignity

and respect. Senators Cardin, Coats, Conrad, Gillibrand, Hoeven, Hutchison, Johanns, Kirk, Pryor, Reid, Rockefeller, Rubio, and Shaheen are all original cosponsors of the bill. Senators Ayotte, Begich, Blunt, Boozman, Brown of Massachusetts, Cantwell, Collins, Coons, Cornyn, Enzi, Graham, Inhofe, Kerry, Lieberman, Manchin, McCaskill, Roberts, Stabenow, Webb, Whitehouse, and Wicker were later added as cosponsors of the bill. The bill was referred to the Committee.

On May 3, 2011, Senator Akaka introduced S. 874, which would modify the provision of compensation and pension to surviving spouses of veterans in the months of death of the veterans and improve housing loan benefits for veterans. The bill was referred to the Committee.

On May 10, 2011, Ranking Member Burr introduced S. 928, which would limit VA's authority to use bid savings on major medical facility projects to expand or change the scope of a major medical facility project of the Department. The bill was referred to the Committee.

On May 11, 2011, Senator Boozman introduced S. 957, the proposed "Veterans' Traumatic Brain Injury Rehabilitative Services' Improvements Act of 2011." S. 957 would improve the provision of rehabilitation services for veterans with traumatic brain injury (hereinafter, "TBI"). Senator Begich is an original cosponsor. Senator Johnson of South Dakota was later added as a cosponsor of the bill. The bill was referred to the Committee.

On May 17, 2011, Senator Sanders introduced S. 1017, the proposed "Disabled Veteran Caregiver Housing Assistance Act of 2011." S. 1017 would increase assistance for disabled veterans who are temporarily residing in housing owned by a family member. The bill was referred to the Committee.

On May 25, 2011, Senator Blumenthal introduced S. 1060, the proposed "Honoring All Veterans Act of 2011." S. 1060 would improve education, employment, independent living services, and health care for veterans; improve assistance for homeless veterans; and improve the administration of VA. The bill was referred to the Committee.

On May 26, 2011, Senator McConnell introduced S. 1089, the proposed "Veterans Health Care Improvement Act of 2011." S. 1089 would provide for the introduction of pay-for-performance compensation mechanisms into VA contracts with community-based outpatient clinics (hereinafter, "CBOCs") for the provision of health care services. The bill was referred to the Committee.

On May 26, 2011, Senator Brown of Ohio introduced S. 1123, which would improve the provision of benefits and assistance to veterans affected by natural or other disasters. The bill was referred to the Committee.

On May 26, 2011, Senator Conrad introduced S. 1124, the proposed "Veterans Telemedicine Act of 2011." S. 1124 would improve the utilization of teleconsultation, teleretinal imaging, telemedicine, and telehealth coordination services for the provision of health care to veterans. The bill was referred to the Committee.

On May 26, 2011, Senator Conrad introduced S. 1127, the proposed "Veterans Rural Health Improvement Act of 2011." S. 1127 would establish centers of excellence for rural health research, education, and clinical activities and recognize the rural health re-

source centers in the Office of Rural Health (hereinafter, "ORH"). The bill was referred to the Committee.

On June 6, 2011, Senator Blumenthal introduced S. 1147, the proposed "Chiropractic Care Available to All Veterans Act of 2011." S. 1147 would require the provision of chiropractic care and services to veterans at all VA medical centers and expand access to such care and services. Senators Grassley, Harkin, Moran, and Whitehouse are original cosponsors of the bill. Senators Murkowski and Tester were later added as cosponsors of the bill. The bill was referred to the Committee.

On June 6, 2011, Committee Chairman Murray introduced S. 1148, the proposed "Veterans Programs Improvement Act of 2011." S. 1148 would improve the provision of assistance to homeless veterans and improve the regulation of fiduciaries who represent individuals for purposes of receiving benefits. The bill was referred to the Committee.

On June 13, 2011, Senator Cantwell introduced S. 1184, which would revise the enforcement penalties for misrepresentation of a business concern as a small business concern owned and controlled by veterans or a small business concern owned and controlled by service-disabled veterans. The bill was referred to the Committee.

On June 8, 2011, the Committee held a hearing on pending legislation. Testimony was offered by: Michael Cardarelli, Principal Deputy Under Secretary for Benefits, VA; Robert L. Jesse, MD, PhD, Principal Deputy Under Secretary for Health, VA; John McWilliam, Deputy Assistant Secretary, Veterans' Employment and Training Service, Department of Labor (hereinafter, "DOL"); Jeff Steele, Assistant Legislative Director, The American Legion; Joseph A. Violante, National Legislative Director, Disabled American Veterans; Raymond Kelley, Director, National Legislative Service, Veterans of Foreign Wars of the United States; Jerry Ensminger, MSgt USMC (Ret.); and J. David Cox, RN, National Secretary-Treasurer, American Federation of Government Employees.

COMMITTEE MEETING

After carefully reviewing the testimony from the foregoing hearing, the Committee met in open session on June 29, 2011, to consider, among other legislation, an amended version of S. 914, consisting of provisions from S. 914 as introduced and provisions from the other legislation noted above. The Committee voted, without dissent, to report favorably S. 914 as amended.

SUMMARY OF S. 914 AS REPORTED

S. 914, as reported (hereinafter, "the Committee bill"), consists of 54 sections, summarized below:

Section 1 would provide a short title and table of contents.

Section 2 provides that certain references within the bill are references to title 38, U.S.C.

TITLE I—HEALTH CARE MATTERS

Section 101 would provide VA with the authority to waive collection of copayments for telehealth and telemedicine visits of veterans.

Section 102 would provide incentives for VA to further expand the use of teleconsultation, teleretinal imaging, and telemedicine.

Section 103 would clarify that VA may make payments and allowances for beneficiary travel in connection with veterans receiving care from Vet Centers.

Section 104 would require VA to allow the use of service dogs on VA property.

Section 105 would require VA to add rehabilitative services to individualized care plans for veterans with TBI.

Section 106 would require VA to establish centers of excellence for rural health research, education, and clinical activities and would recognize rural health resource centers in ORH.

Section 107 would require VA to develop a policy to provide chiropractic services to veterans enrolled in VA health care system.

Section 108 would provide reimbursement rates for ambulance services.

Section 109 would provide for increased flexibility in establishing payment rates for nursing home care provided by State homes.

Section 110 would allow VA to disclose certain information about a veteran to a State prescription monitoring program.

Section 111 would require VA to develop a plan for improvements in recovery and collection of amounts for VA's Medical Care Collections Fund (hereinafter, MCCF").

TITLE II—HOMELESS VETERANS MATTERS

Section 201 would enhance VA's comprehensive service programs.

Section 202 would modify VA's grant program for homeless veterans with special needs.

Section 203 would modify the authority for provision of treatment and rehabilitation to certain veterans to include provision of treatment and rehabilitation to homeless veterans who are not seriously mentally ill.

Section 204 would require VA to submit to Congress a plan to end veteran homelessness.

Section 205 would extend certain authorities relating to homeless veterans.

Section 206 would reauthorize appropriations for the Homeless Veterans Reintegration Program (hereinafter, "HVRP").

Section 207 would reauthorize appropriations for financial assistance for supportive services for very low-income veteran families in permanent housing.

Section 208 would reauthorize appropriations for a grant program for homeless veterans with special needs.

Section 209 would encourage collaboration in the provision of case management services to homeless veterans in the supported housing program.

TITLE III—HOUSING MATTERS

Section 301 would provide a short title.

Section 302 would extend the period of protections for members of the uniformed services relating to mortgages, mortgage foreclosure, and eviction and require a report on those protections.

Section 303 would allow occupancy of property by a dependent child of a veteran to satisfy the occupancy requirement for VA housing loans.

Section 304 would waive loan fees for individuals with disability ratings issued during pre-discharge programs.

Section 305 would improve assistance for disabled veterans residing in housing owned by a family member.

Section 306 would expand eligibility for specially adapted housing assistance for veterans with vision impairment.

Section 307 would revise limitations on assistance furnished for acquisition and adaptation of housing for disabled veterans.

TITLE IV—COMPENSATION AND PENSION

Section 401 would increase the rate of pension for disabled veterans married to another who both require regular aid and attendance (hereinafter, "A&A").

Section 402 would provide authority for a retroactive effective date for awards of disability compensation in connection with applications that are fully developed at submittal.

Section 403 would modify the month-of-death benefit for surviving spouses of veterans who die while entitled to compensation or pension.

Section 404 would provide an automatic waiver of agency of original jurisdiction review of new evidence.

TITLE V—MEMORIAL, BURIAL, AND CEMETERY MATTERS

Section 501 would prohibit certain disruptions of funerals of members or former members of the Armed Forces.

Section 502 would codify the prohibition against reservation of gravesites at ANC.

Section 503 would expand eligibility for presidential memorial certificates to persons who died in the active military, naval, or air service.

TITLE VI—CONSTRUCTION MATTERS

Section 601 would authorize fiscal year (hereinafter, "FY") 2012 major medical facility projects.

Section 602 would modify authorization for certain major medical facility construction projects previously authorized.

Section 603 would authorize FY 2012 major medical facility leases.

Section 604 would authorize appropriations for construction and leases.

Section 605 would limit the authority of VA to use bid savings on major medical facility projects to expand the purpose of major medical facility projects.

Section 606 would designate the VA Medical Center in Big Spring, Texas, as the George H. O'Brien, Jr., Department of Veterans Affairs Medical Center.

Section 607 would designate the telehealth clinic in Craig, Colorado, as the Major William Edward Adams Department of Veterans Affairs Clinic.

TITLE VII—OTHER ADMINISTRATIVE AND BENEFITS MATTERS

Section 701 would provide assistance to veterans affected by natural disasters.

Section 702 would revise the limitation on the aggregate amount of educational assistance available to individuals who receive both survivors' and dependents' educational assistance and other veterans and related educational assistance.

Section 703 would enhance VA enforcement penalties for misrepresentation of a business concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans.

Section 704 would provide authority for certain persons to sign claims filed with VA on behalf of claimants.

Section 705 would improve the process for filing jointly for Social Security and dependency and indemnity compensation.

Section 706 would provide parity between part-time and full-time students under VA employee incentive scholarship program.

Section 707 would require a report on pay-for-performance compensation under health care services contracts.

Section 708 would extend the authority to obtain information from the Secretary of Treasury and the Commissioner of Social Security for income verification purposes.

Section 709 would extend the authority for a VA regional office in the Republic of the Philippines.

Section 710 would require a report on establishment of a VA PRC or PNS in the northern Rockies or Dakotas.

Section 711 would modify the loan guaranty fee for certain initial loans.

BACKGROUND AND DISCUSSION

TITLE I—HEATH CARE MATTERS

Sec. 101. Authority to waive collection of copayments for telehealth and telemedicine visits of veterans.

Section 101 of the Committee bill, which is derived from S. 914, as introduced, would provide VA with the authority to waive the collection of copayments from veterans for telehealth and telemedicine visits.

Background. For purposes of providing greater access to care and reducing the amount of travel required for patients, especially in rural areas, VA delivers care through telehealth modalities such as telephone consultations, videoconferencing, and use of robotic technology. Telehealth visits can be made from patient homes or community-based outpatient clinics.

In December 2008, a team led by Adam Darkins, MD, Chief Consultant, Care Coordination, in VA's Office of Patient Care Services, published a study entitled, "Care Coordination/Home Telehealth: The Systematic Implementation of Health Informatics, Home Telehealth, and Disease Management to Support the Care of Veteran Patients with Chronic Conditions." That study found that VA patients using home telehealth experienced a 19-percent reduction in hospital admissions and a 25-percent reduction in the number of days patients were required to be cared for in bed. The reduction in bed days of care has since declined by 30 percent for those uti-

lizing home telehealth, according to routine outcomes data from VA's Office of Telehealth Services from FY 2009 through FY 2010. Further, according to an October 2010 article, "Telehealth in the VA: Telehealth Continues to Make Its Mark," by Dr. Darkins, patient satisfaction levels associated with home telehealth exceeded 85 percent, and they exceeded 90 percent for use of store-and-forward technology.

A RAND Corporation study, "Health Insurance and the Demand for Medical Care: Evidence from a Randomized Experiment," found that copayment rates were highly influential in whether enrollees sought medical care. Under current law, section 1710 of title 38, U.S.C., VA charges full copayments for care delivered through telehealth technologies. Certain VA patients may be charged 15 dollars for primary care telehealth visits and 50 dollars for specialty care telehealth visits.

In views submitted for the Committee's June 8 hearing on pending legislation, VA agreed that, in the Department's experience, copayments may have served as a disincentive for veterans to utilize this mode of treatment. VA further indicated that it is planning to waive copayments for veterans' use of in-home video telehealth.

Committee Bill. Section 101 of the Committee bill would amend subchapter III of chapter 17 of title 38, U.S.C., by adding a new section 1722B. The new section would authorize VA to waive collections of copayments from veterans for the utilization of telehealth or telemedicine.

The Committee expects that, as indicated by the RAND study and VA data, waiving the collection of copayments from veterans for telehealth and telemedicine visits would increase utilization of telehealth and telemedicine services by veterans and would provide cost savings to the Department.

Sec. 102. Teleconsultation, teleretinal imaging, and telemedicine.

Section 102 of the Committee bill, which is derived from S. 1124, would require VA to implement a program of teleconsultation for the assessment of mental health and TBI at facilities that are unable to provide such assessments without utilizing contract or fee-basis care, require VA to implement incentives for Department medical centers to further expand use of telehealth technologies, assess the efficacy of such incentives, and offer telemedicine training for medical residents.

Background. Telehealth is a form of clinical medicine where medical information is transferred via telephone, the Internet, or other networks for the purpose of monitoring health status, providing health education, consulting, and sometimes providing remote medical procedures or health examinations. Telehealth can take place in various situations—between providers and patients located in separate clinical settings, as well as with patients in their homes. Telehealth technology at veterans' health care facilities allows patients in remote rural areas to consult with medical specialists through this technology. This option can provide such veterans with access to care without having to drive long distances to reach a specialist.

Tele-mental health services refer to behavioral health services that are provided using communication technology. These services include clinical assessment, individual and group psychotherapy,

psycho-educational interventions, cognitive testing, and general psychiatry. The term tele-mental health describes a method of treatment in which a clinician uses various technologies to deliver mental health care to a patient who is at a different location. One major benefit of tele-mental health is that it eliminates travel that may be disruptive to or costly for the veteran. In addition, tele-mental health is a useful tool in correctional and forensic settings where it is difficult to transport the patient to a clinician. Tele-mental health also allows mental health care providers to consult with or supervise one another.

According to Dr. Darkins, the benefits of telehealth to VA are improved access to specialty care, especially in rural areas, reductions in travel for patients and staff, better utilization of scarce health care resources, and improved coordination of care.

Additionally, VA data released in December 2010 show that, of the Operation Enduring Freedom and Operation Iraqi Freedom (hereinafter, "OEF/OIF") veterans who have accessed VA health care services, 45,606 have been diagnosed with TBI-related conditions at VA medical facilities. With approximately 41 percent of enrolled veterans living in rural or highly rural areas, the Department faces a substantial need for increased telehealth and telemedicine in order to improve access to care.

Committee Bill. Section 102 of the Committee bill would amend subchapter I of chapter 17 of title 38, U.S.C., by adding a new section 1709, which would require VA to provide mental health and TBI assessments through teleconsultation when necessary. Section 102 of the Committee bill would further require VA to implement incentives for Department medical centers to further expand use of telehealth technologies, assess the efficacy of such incentives, and offer telemedicine training for medical residents.

Subsection (a) of new section 1709 would require VA to carry out a teleconsultation program of remote mental health and TBI assessments in VA facilities that are unable to provide such assessments without utilizing contract or fee-basis care. New subsection (a) would also require VA to promulgate technical and clinical care standards for teleconsultation service in consultation with the appropriate professional societies.

Section 102(b) of the Committee bill would require VA to offer opportunities for training in telemedicine to medical residents in facilities that have and utilize telemedicine, consistent with medical residency program standards established by the Accreditation Council for Graduate Medical Education.

Section 102(c) of the Committee bill would require VA to modify the Veterans Equitable Resource Allocation (hereinafter, "VERA") system to include teleconsultation, teleretinal imaging, telemedicine, and telehealth coordination services. VA would also be required to assess, within one year of modifying the VERA system, the effect on the utilization of telehealth technologies and determine whether additional incentives are necessary to promote their utilization. VA would also be required to include telemedicine visits when calculating facility workload.

Sec. 103. Payments and allowances for beneficiary travel in connection with veterans receiving care from Vet Centers.

Section 103 of the Committee bill, which is derived from S. 696, would clarify that VA is authorized to offer travel benefits to veterans receiving care at Vet Centers. It would provide for a one-year authorization of travel benefits to veterans receiving care at Vet Centers while VA completes a review of the feasibility and advisability of providing this benefit.

Background. Vet Centers provide readjustment counseling and other needed services to combat veterans, to certain surviving family members of servicemembers who die in the line of duty, and to active duty servicemembers. Vet Centers provide these services at a cost savings to the Department. According to VA, it costs an average of $613 per veteran for treatment at a Vet Center, while it costs $4,129 per veteran for care at a VA medical center (hereinafter "VAMC"). According to VA data published in April 2011, 300 Vet Centers served 352,272 veterans from the first quarter of FY 2002 through the first quarter of FY 2011.

According to testimony submitted by the Department for the June 8 hearing on pending legislation, VA has begun a study to determine the potential efficacy and impacts of providing travel benefits to veterans who use Vet Centers.

Committee Bill. Section 103 of the Committee bill would, in a freestanding provision, clarify that the Department is authorized to pay travel benefits to veterans receiving care at Vet Centers pursuant to existing authority under section 111(a) of title 38, U.S.C. It would also require VA to submit a report to Congress, no later than one year after the enactment of the Committee bill, on the feasibility and advisability of paying travel benefits to veterans receiving care at Vet Centers. Finally, this section of the Committee bill would authorize such sums as may be necessary to be appropriated for the Department to pay such expenses and allowances for the one-year period following the enactment of the Committee bill.

Sec. 104. Use of service dogs on property of the Department of Veterans Affairs.

Section 104 of the Committee bill, which is derived from S. 769, would require VA to admit service dogs into any Department owned or funded facility or property.

Background. Section 1714(c) of title 38, U.S.C., authorizes VA to provide service dogs to veterans who are hearing impaired, veterans with spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility, and veterans with mental illnesses, including post-traumatic stress disorder (hereinafter, "PTSD").

On March 10, 2011, with the issuance of Veterans Health Administration (hereinafter, "VHA") Directive 2011–013, the Department authorized both veterans and members of the public with disabilities that require the assistance of a trained guide dog or trained service dog to enter VHA facilities and property accompanied by their trained guide dog or trained service dog, consistent with the same terms and conditions, and subject to the same regulations that govern the admission of members of the public to the property.

According to the Department's proposed rule, RIN 2900-AN51 posted June 16, 2011, the Department will recognize dogs acquired

through organizations that provide service dogs and are accredited by Assistance Dogs International or International Guide Dog Federation and will only accept dogs trained by such accredited organizations for the service dog program.

Committee Bill. Section 104 of the Committee bill would amend section 1714 of title 38, U.S.C., by adding a new subsection (e), which would require VA to grant full access to all service animals accompanying individuals at every VA facility according to the same regulations that govern the admission of the public to such facilities. The provision would apply not only to service dogs as provided for in section 1714(c) of title 38, U.S.C., but would also include trained service animals that accompany individuals with disabilities not specified by that subsection. Further, VA would be authorized to prohibit service animals from roaming or running free and to require the animals to wear harnesses or leashes and be under the control of an individual at all times while at a Department owned or funded facility.

Sec. 105. Rehabilitative services for veterans with traumatic brain injury.

Section 105 of the Committee bill, which is derived from S. 957, would amend section 1710C of title 38, U.S.C., by expanding individualized rehabilitation and reintegration plans required by such section to include services designed to maintain levels of functioning in care for veterans with TBI.

Background. TBI has become a common injury of the conflicts in Iraq and Afghanistan. Because of advances in medicine, servicemembers who would not have been expected to survive catastrophic injuries in previous conflicts return home from combat in Iraq and Afghanistan with unprecedented severe and complex injuries. The Department indicated in December 2010 that 45,606 OEF/OIF veterans have accessed VA health care services and have been diagnosed with TBI-related conditions at VA medical facilities as of FY 2010. According to the Defense and Veterans Brain Injury Center, between 2000 and the first quarter of 2011, 212,742 cases of TBI were diagnosed. Many of these servicemembers require rehabilitative programs ranging from total care for the most basic needs to semi-independent living support.

In addition to medical care, veterans with TBI may require additional services such as life-skills coaching, supported employment, and community reintegration therapy. Yet these services are not sufficiently made available to veterans. In testimony before the Committee on June 8, 2011, Jeff Steele, Assistant Director of The American Legion's National Legislative Commission, stated that the proposed section would "close gaps in both the duration and types of services provided to our wounded servicemembers who have sustained what are often profoundly debilitating traumatic brain injuries."

Committee Bill. Subsection (a) of section 105 of the Committee bill would amend section 1710C of title 38, U.S.C., by requiring VA to add rehabilitative services to the individualized rehabilitation and reintegration plans for care for veterans with TBI.

Subsection (a) would further amend section 1710C of title 38, U.S.C., by adding a new subsection (h) that would define rehabilitative services as including the definition of such term as provided

for in section 1701 of title 38, U.S.C. ("professional, counseling and guidance services and treatment programs as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person"), treatment and services to sustain functional gains, or other services that may maximize an individual's independence.

Subsection (b) of section 105 of the Committee bill would amend section 1710D(a) of title 38, U.S.C., by requiring VA to include rehabilitative services in the comprehensive program for long-term rehabilitation of individuals with TBI.

Subsection (c) of section 105 of the Committee bill would amend section 1710E(a) of title 38, U.S.C., by including rehabilitative services in the categories of services VA is authorized to provide to individuals with TBI through cooperative agreements for use of non-Department rehabilitation facilities.

Subsection (d) of section 105 of the Committee bill would make a technical amendment to section 1710C(c)(2)(S).

Sec. 106. Centers of excellence for rural health research, education, and clinical activities.

Section 106 of the Committee bill, which is derived from S. 1127, would require VA, acting through the Director of ORH, to establish and operate centers of excellence for rural health research, education, and clinical activities.

Background. According to VA data, 3.3 million veterans, who represent approximately 41 percent of the total population enrolled in VA's health care system, live in rural or highly rural areas. Insufficient access to care has been a particular problem for those in rural areas. A lack of providers, especially specialty care providers, long drive times, and other factors combine to present significant obstacles to accessing health care for rural veterans. Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, established ORH to address these issues.

As part of the effort to improve care for rural veterans, in 2008, VA awarded a grant to the Fargo, North Dakota, VAMC and the Center for Rural Health at the University of North Dakota School of Medicine and Health Sciences to establish a multi-state Rural Health Resource Center. The Rural Health Resource Center is intended to help advance policies and strategies to improve access to care in rural areas.

Committee Bill. Subsection (a) of section 106 of the Committee bill would amend subchapter II of chapter 73 of title 38, U.S.C., to create a new section 7330B. Subsection (a) of this new section would require VA, acting through the Director of ORH, to create centers of excellence for rural health, education, and clinical activities. Subsection (b) of new section 7330B would require these centers to perform one or more of the following functions: collaborate with the VHA Office of Research and Development (hereinafter, "ORD") on rural health research; develop specific models for the Department to furnish care to rural veterans; develop innovative clinical activities and systems of care for rural veterans; and provide education and training on rural health issues for health care professionals. Subsection (c) of new section 7330B would authorize VA to designate an existing ORH rural health resource center as a center of excellence if it engages in one or more of the activities

described in new subsection (b). Subsection (d) of new section 7330B would require that centers of excellence be eligible to compete for the awarding of funds from the Medical and Prosthetic Research Account.

Subsection (b) of section 106 of the Committee bill would amend section 7308 of title 38, U.S.C., by adding a new subsection (d) to codify the existence and describe the purposes of rural health resource centers. Rural health resource centers would be required to improve the ORH's understanding of challenges faced by rural veterans, identify disparities in the availability of health care to rural veterans, create programs to enhance the delivery of health care to rural veterans, and develop best practices and products for the Department to use in providing services to rural veterans.

Subsection (c) of section 106 of the Committee bill would designate the VAMC in Fargo, North Dakota, as a center of excellence for rural health research, education, and clinical activities.

Sec. 107. Provision of chiropractic services to veterans enrolled in health care system of Department of Veterans Affairs.

Section 107 of the Committee bill, which is derived from S. 1147, would require VA to develop and implement a comprehensive policy on the provision of chiropractic services.

Background. Pursuant to Public Law 107–135, the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001, VA carries out a program to provide chiropractic services to veterans through VAMCs and CBOCs. VA is required to designate at least one site in each Veterans Integrated Service Network (hereinafter, "VISN") to offer chiropractic services. As of June 2011, 36 VAMCs and CBOCs provide chiropractic services.

According to data published by the Department in April 2011, more than 54 percent of OEF/OIF veterans who sought health care from the Department over the period of the first quarter of FY 2002 through the first quarter of FY 2011 were treated for musculoskeletal ailments. Chiropractic therapy can assist with some of these types of ailments and injuries.

Committee Bill. Section 107 of the Committee bill would, in a freestanding provision, require VA to develop and implement a comprehensive policy on the provision of chiropractic services by June 1, 2012.

Subsection (a) of section 107 of the Committee bill would require the scope of this policy to include: Department-wide protocols governing referrals and direct access to chiropractic services and governing the scope of practice of chiropractic providers; the definition of chiropractic services to be provided; the assurance of prompt and appropriate chiropractic services by VA when medically appropriate; Department programs of education and training of health care personnel on the benefits of chiropractic services; and Department programs of patient education for veterans suffering from back pain and related disorders. VA would also be required, in consultation with veterans service organizations (hereinafter, "VSOs") and other relevant organizations with expertise in chiropractic services, to develop and periodically revise such policy, in accordance with experience and evolving best practice guidelines.

Subsection (b) of section 107 of the Committee bill would require VA to carry out the policy on chiropractic services at no less than

two locations in each VISN and in locations deemed appropriate with respect to demand for chiropractic services.

Subsection (c) of section 107 of the Committee bill would require VA to submit a report on the implementation of the chiropractic services policy not later than 180 days after the completion and initial implementation of such policy, and on October 1 of every fiscal year thereafter until FY 2020, to the Committees on Veterans' Affairs of the Senate and the House of Representatives. The report would be required to include a description of the policy, the performance measures used to determine the effectiveness of such policy, an assessment of the adequacy of VA chiropractic services based on patient surveys, an assessment of the training provided to VA health care personnel with respect to chiropractic services and appropriateness of referrals of patients for such services, an assessment of patient pain care education programs, and the number of episodes of chiropractic services provided, including through referrals to non-VA providers in the preceding fiscal year by facility.

Sec. 108. Reimbursement rate for ambulance services.

Section 108 of the Committee bill, which is derived from by-request legislation submitted by the Department, would authorize VA to pay the lesser of the actual amount charged by an ambulance provider or the applicable amount in the Medicare fee schedule for ambulance services, unless VA has entered into a contract for such transportation with the provider.

Background. Under current law, section 111 of title 38, U.S.C., VA is authorized to reimburse certain veterans for their transportation by ambulance to and from VA medical facilities based on the "actual necessary expense." As a result, the Department pays significantly more than Medicare does for ambulance services.

Committee Bill. Section 108 of the Committee bill would amend section 111(b)(3) of title 38, U.S.C., by adding a new subparagraph (C), which would authorize the Department to pay the lesser of the actual amount charged by the ambulance provider or the applicable amount in the Medicare fee schedule for ambulance services, unless VA has entered into a contract for such transportation with the provider. It is the Committee's expectation that the Department would realize cost savings by utilizing the authority of this provision.

Sec. 109. Increased flexibility in establishing payment rates for nursing home care provided by State homes.

Section 109 of the Committee bill, which is derived from by-request legislation submitted by the Department, would modify the payment methodology for State veterans homes by requiring the Department to enter into contracts or agreements with State veterans homes for payment for nursing home care of veterans.

Background. Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, provided for new payment mechanisms between VA and State veterans homes. When fully implemented with Department regulations in 2009, the legislation had the consequence of causing significantly lower total amounts to be paid to many State veterans homes providing skilled nursing care to veterans with service-connected disabilities. State

veterans homes are currently being paid less than what Medicare previously paid and less than the Department payment rate for providing the same care directly to the same veterans. As a result, many State veterans homes are not sufficiently compensated for their total cost of skilled nursing care for veterans with service-connected disabilities.

The National Association of State Veterans Homes (hereinafter, "NASVH"), whose members operate 142 State veterans homes with over 29,000 beds in all 50 states and Puerto Rico, submitted a statement to the Committee on June 22, 2011. The NASVH statement asserts that, without the proposed section, current law will hinder the long-term care of veterans with service-connected disabilities, as well as endanger the financial welfare of many State veterans homes. Further, NASVH data show that State veterans homes provide long-term care for more than 50 percent of VA's long-term care patients at a cost that is equal to approximately 12 percent of VA's long-term care budget. This is due to the fact that the cost of providing long-term care for a veteran at a State veterans home is, on average, less than half of the cost of providing care at a VA long-term care facility.

In an explanatory analysis submitted by the Department to accompany its submission for its by-request legislation, VA states that it believes moving to a contract- or provider agreement-based model will afford the most flexibility and fairness in negotiations between VA and State veterans homes and will ensure that State veterans homes are paid adequately and according to the complexity and severity of each veteran's condition. This approach would replace the current per diem grant payments for these veterans, which, according to VA, have been controversial since first implemented in 2009.

Committee Bill. Section 109 of the Committee bill would amend section 1745(a) of title 38, U.S.C., by requiring VA to enter into contracts or provider agreements with State veterans homes for the purpose of providing nursing home care in these homes to veterans. Payment under the contract or provider agreement would be required to be based on a methodology developed in consultation with the State veterans home and to adequately reimburse the home for the care provided. This section would become effective on January 1, 2012.

Sec. 110. Access to State prescription monitoring programs.

Section 110 of the Committee bill, which is derived from S. 1060 and a similar provision that was submitted by the Department as a component of by-request legislation, would authorize VA, to the extent necessary to prevent misuse and diversion of prescription medicines, to disclose information about a veteran or the dependent of a veteran to a State controlled substance monitoring program.

Background. Programs that permit sharing of prescription drug information with State prescription monitoring programs have been used to reduce abuse, misuse, or illegal diversion of controlled substances by patients seeing multiple providers or using multiple pharmacies. While there is no standardized structure in prescription monitoring programs, in general, such programs include an electronic database, operated by a State government entity, which allows medical providers, law enforcement personnel, pharmacists,

and other individuals who require access to such information for official purposes to access the database and contribute information to it.

According to the White House Office of National Drug Control Policy (hereinafter, "ONDCP"), one of the major ways to reduce prescription drug abuse is through monitoring. ONDCP is working to implement prescription drug monitoring programs in every State and enhance such programs to ensure they can share data between States and that they are used by health care providers. Prescription monitoring programs have been authorized by legislation in 48 States, with 34 of these States maintaining operational programs.

Committee Bill. Subsection (a) of section 110 of the Committee bill would amend section 5701 of title 38, U.S.C., by adding a new subsection (l) that would authorize VA, to the extent necessary to prevent misuse and diversion of prescription medicines, to disclose information from certain claims records about a veteran or a dependent of a veteran to a State controlled substance monitoring program.

Subsection (b) of section 110 of the Committee bill would amend section 7332(b)(2) of title 38, U.S.C., by adding a new subparagraph (G), to authorize VA to share prescription drug data on controlled substances with State prescription monitoring programs. This subsection would authorize the Department, to the extent necessary to prevent misuse and diversion of prescription medicines, to disclose information from certain medical records about a veteran or a dependent of a veteran to a State controlled substance monitoring program.

Sec. 111. Improvements for recovery and collection of amounts for Department of Veterans Affairs Medical Care Collections Fund.

Section 111 of the Committee bill, which is an original provision, would require VA to develop and implement a better process and system of controls to ensure accurate and full collections by the VA health care system, pursuant to existing authorities for billing and collections.

Background. VHA utilizes fee-basis care to augment availability of health care for services they are unable, or it would be inefficient, to provide using Department facilities and providers.

According to a VA Office of Inspector General (hereinafter, "OIG") report entitled, "Veterans Health Administration Audit of Medical Care Collection Fund Billings for Non-VA Care" published May 25, 2011, VHA failed to bill third-party insurers for 46 percent of billable fee care claims. OIG identified a lack of an effective procedure for identifying billable care as the prime reason for this shortcoming.

In two of the VA medical facilities OIG reviewed, staff did not regularly review claims to identify billable fee care and, consequently, these locations did not identify 140, or 93 percent, of the 150 billable fee claims OIG reviewed.

VA is currently transitioning all medical center billing to regional centers known as Consolidated Patient Account Centers (hereinafter, "CPACs"). According to OIG's review, CPACs were no more successful in identifying billable fee claims than were medical facilities that have not yet begun to utilize a CPAC.

By creating effective processes and tools for identifying billable fee claims, OIG estimates that VHA could increase collections by approximately $110.4 million each year, or $552 million over the next five years.

Committee Bill. Subsection (a) of section 111 of the Committee bill would, in a freestanding provision, require VA to develop and implement, within 180 days of enactment of the Committee bill, a plan to ensure the identification and collection of billable third-party revenue to be deposited in the MCCF. This provision would require the following elements to be included in the plan: an effective process to identify billable fee claims, effective and practicable policies and procedures to ensure billing and collection using current authorities, training of employees responsible for billing or collection of funds to enable them to comply with the provisions of this section, fee revenue goals for the Department, and an effective monitoring system to ensure the Department meets fee revenue goals and complies with such policies and procedures.

Subsection (b) of section 111 of the Committee bill would require VA to monitor the billing and collection of funds from third parties for deposit into the MCCF.

TITLE II—HOMELESS VETERANS MATTERS

Sec. 201. Enhancement of comprehensive service programs.

Section 201 of the Committee bill, which is derived from S. 1148, would enhance VA's homeless veterans' comprehensive service programs by broadening the pool of potential applicants and making other changes designed to improve the overall program.

Background. Public Law 102–590, the Homeless Veterans Comprehensive Service Programs Act of 1992, established VA's Homeless Providers Grant and Per Diem Program (hereinafter, "GPD"). The grant program was intended to assist public and nonprofit private entities with the costs associated with establishing new programs and service centers to furnish supportive services and housing for homeless veterans through grants that may be used to acquire, renovate, or alter facilities. The grant program also allows funds to be used to procure vans to conduct outreach to, or provide transportation for, homeless veterans. The per diem program was intended to provide per diem payments, or in-kind assistance in lieu of per diem payments, to assist eligible entities that established programs after November 10, 1992, with the daily costs associated with providing supportive services and housing for homeless veterans.

Section 2011 of title 38, U.S.C., sets forth the authority, criteria, and requirements for VA's grant program. The law requires VA to establish criteria and requirements for grants awarded under this section. Eligible entities for these grants are restricted to public or nonprofit private entities with the capacity to administer the grant effectively. An eligible entity must demonstrate that adequate financial support will be available to carry out the project for which the grant is sought consistent with the plans, specifications, and schedule submitted by the applicant. An eligible entity must also agree to meet, as well as have the capacity to meet, the applicable criteria and requirements established by VA. Currently, the specifications as to the kinds of projects for which the grants are avail-

able do not include new construction of facilities. In addition, the grants may not be used to support operational costs and the amount of the grant may not exceed 65 percent of the estimated cost of the project concerned.

Section 2012 of title 38, U.S.C., sets forth the authority, criteria, and requirements for VA's per diem program. The law requires VA to provide to recipients of grants under section 2011 of title 38 per diem payments for services furnished to any homeless veteran whom VA has referred to the grant recipient or for whom VA has authorized the provision of services. The per diem rate is defined as the estimated daily cost of care, not in excess of the per diem rate for VA's State Home Per Diem Program.

While GPD has proven to be a vital part of VA's services for homeless veterans, funding challenges remain. VA's Advisory Committee on Homeless Veterans (hereinafter, "ACHV"), which provides advice and makes recommendations to the Department on the provision of benefits and services to homeless veterans, stated in its 2010 Annual Report that "the current system underfunds many providers, particularly those in high cost areas and those that offer intensive services to veterans with complex issues."

Challenges have also been identified regarding GPD's payment process and reporting requirements. The National Coalition for Homeless Veterans (hereinafter, "NCHV") recommended that "[a] revised payment process would greatly benefit GPD grantees, the majority of which are modest community-based organizations." According to the NCHV, grantees should be paid for the annual cost of providing services as opposed to a per diem rate. The NCHV argues that grantees should be allowed to draw from these funds in anticipation of contractual activities. Currently, grantees must pay for services they provide up front and are later reimbursed.

Committee Bill. Section 201 of the Committee bill would amend subchapter II of chapter 20 of title 38, U.S.C., to make a number of improvements. It would amend section 2011(b)(1)(A), the provision that sets forth the criteria for grants, to include new construction of facilities as a type of program for which such grants could be awarded. It would amend section 2011(c), the provision that sets forth funding limitations on grantees, so as to specify that VA may not deny an application from an entity under this program solely on the basis that the entity proposes to use other funding sources, as long as such entity has a private nonprofit organization providing oversight and site control over the project. In connection with this change, the Committee bill would add a definition of a "private nonprofit organization." It is the Committee's expectation that these changes will modernize GPD to allow for the utilization of innovative project funding strategies, including the use of low-income housing tax credits and matching funds from other government sources to facilitate and hasten project development.

With respect to the issue of the per diem payments, section 201(b) of the Committee bill, in a freestanding provision, would require VA to study the method of compensating GPD community providers for their program expenses, including the adequacy of the reimbursement system, the adequacy of compensation in various geographic areas and for services of varying intensity levels, and the process by which grant recipients account for funds.

The Committee bill would require VA to report to Congress, within 1 year of this bill's enactment, its findings with respect to the study undertaken and the procedures it has devised for more effective and efficient procedures for fiscal control and fund accounting by recipients of grants under sections 2011, 2012, and 2061 of title 38. VA would also be required to report to Congress on a more effective and efficient method for adequately reimbursing recipients of grants under section 2011 of title 38. Finally, the report would include any recommendations by VA for revising the method used to compensate recipients of per diem grants under section 2012(a).

This section of the Committee bill would ensure that VA will evaluate the effectiveness of its methods of payment and reimbursement and examine to whom reimbursements are made. Such a review is consistent with the Committee's belief that the long-term success of GPD requires flexibility and improvement to the program.

The Committee bill would amend section 2013 of title 38, U.S.C., by authorizing the following appropriations: (1) $150,000,000 for each of FYs 2007 through 2009; (2) $175,100,000 for FY 2010; (3) $217,700,000 for FY 2011; (4) $250,000,000 for FY 2012; and (5) $150,000,000 for FY 2013 and each fiscal year thereafter.

The Committee has heard from providers who have the capacity to allow veterans to transition in place and believe that VA could achieve better results for more homeless veterans by increasing flexibility to fund this model. These providers are of the opinion that allowing veterans to transition in place by offering temporary rental assistance with case management may be less disruptive for some homeless veterans, allowing them to live in regular rental housing in the community while transitioning into self-sufficiency with the help of case management, employment programs, and other services. It is the Committee's intent to increase flexibility in VA's existing funding model to allow for more efficient delivery of transitional housing services to homeless veterans.

Sec. 202. Modification of grant program for homeless veterans with special needs.

Section 202 of the Committee bill, which is derived from S. 1148, would modify the grant program for homeless veterans with special needs.

Background. Under section 2061 of title 38, U.S.C., VA operates a program of grants to encourage development of programs for homeless veterans with special needs. Section 2061(a) provides that these special needs grants may only be awarded to VA health care facilities and to providers receiving grant and per diem payments under VA's GPD Program. Section 2061(b) defines homeless veterans with special needs as: (1) women, including women who have care of minor dependents; (2) frail elderly; (3) terminally ill; or (4) chronically mentally ill.

The Committee has heard from organizations, such as the Vietnam Veterans of America, who are of the opinion that it is important to ensure that the program be expanded to include men who have care of minor dependents.

Committee Bill. Subsection (a) of section 202 of the Committee bill would amend section 2061(a) of title 38, U.S.C., to expand the

pool of eligible providers who may receive VA grants for programs to assist homeless veterans with special needs to those entities eligible to receive grant and per diem payments, but who may not be doing so. Thus, these grants would no longer be limited to existing VA health care facilities and current grant and per diem providers, but will allow those eligible for but not in receipt of grant and per diem payments to apply to the grant program for homeless veterans with special needs.

Subsection (b) of section 202 of the Committee bill would amend section 2061(b) of title 38 to expand the definition of homeless veterans with special needs to include veterans who have care of minor dependents, regardless of gender.

Subsection (c) of section 202 of the Committee bill would amend section 2061 of title 38 to allow grantees to provide services directly to any dependent who is under the care of a homeless veteran with special needs while the veteran receives services from the grant recipient.

Sec. 203. Modification of authority for provision of treatment and rehabilitation to certain veterans to include provision of treatment and rehabilitation to homeless veterans who are not seriously mentally ill.

Section 203 of the Committee bill, which is derived from S. 1148, would expand VA's authority to provide treatment and rehabilitation services to certain veterans who are homeless but not seriously mentally ill.

Background. Section 2031 of title 38, U.S.C., authorizes VA to provide outreach services, care, treatment, rehabilitative services, and certain other assistance to veterans suffering from serious mental illness, including such veterans who are also homeless. A significant number of veterans are homeless for reasons other than mental illness. In February 2011, the Department of Housing and Urban Development (hereinafter, "HUD") and VA jointly released a report entitled, "Veterans Homelessness: A Supplemental Report to the 2009 Annual Homeless Assessment Report to Congress," which cites several risk factors that can lead to homelessness among veterans, including but not limited to, age, race, psychiatric illness, economic status prior to entry in the military, combat exposure, wartime trauma, social isolation, pre-military traumas, unemployment, and poor health.

Committee Bill. Section 203 of the Committee bill would amend section 2031(a) of title 38 to expand VA's authority to provide outreach services, care, treatment, rehabilitative services, and certain other assistance to veterans suffering from serious mental illness and to veterans who are homeless. This section would allow VA to treat a homeless veteran under section 2031 even if that veteran does not suffer from a serious mental illness. The Committee believes that removing this unnecessary limitation will allow VA to better serve homeless veterans.

Sec. 204. Plan to end veteran homelessness.

Section 204, which is derived from S. 1148, would require VA to submit to Congress a comprehensive plan to end homelessness among veterans.

Background. Against a backdrop of an estimated 136,000 veterans who experienced homelessness in FY 2009, VA developed a "Five Year Plan to End Homelessness Among Veterans" (hereinafter, "5-Year Plan"). The six strategic pillars of the plan are: (1) outreach and education; (2) treatment; (3) prevention; (4) housing and supportive services; (5) income, employment, and benefits; and (6) community partnerships. While the plan lacked specific annual goals, timelines, and benchmarks, VA noted that performance metrics will include the number of veterans identified as homeless or at risk of being homeless and the number of these veterans who transition into stable housing situations, based on VA's assistance.

As a part of VA's plan to end homelessness, each medical center has been charged with working with the community to create a 5-year plan to end veteran homelessness. The 2010 Annual Report of the ACHV noted that "there has been much made of local efforts however without a stronger national plan the effort may be unsustainable."

In 2010, VA participated in the Federal Strategic Plan to Prevent and End Homelessness. The plan is a roadmap for joint action by the 19-member United States Interagency Council on Homelessness, of which the Department is a member. It focuses on four key goals: (1) finish the job of ending chronic homelessness in 5 years; (2) prevent and end homelessness among veterans in 5 years; (3) prevent and end homelessness for families, youth, and children in 10 years; and (4) set a path to ending all types of homelessness. Like the VA plan, this plan lacks specific annual goals, timelines, and benchmarks, but states that they will measure progress based on annual changes in the number of veterans experiencing homelessness.

Committee Bill. Section 204 would, in a freestanding provision, build upon the existing 5-Year Plan and the Federal Strategic Plan to Prevent and End Homelessness by requiring VA to submit to Congress a comprehensive plan to end homelessness among veterans. The Committee believes that, in order to sustain efforts to end homelessness among veterans we must have strong leadership at the Federal level to guide strong collaborations at the local level.

The plan required under this section would include an analysis of VA and Federal government programs designed to prevent homelessness among veterans and assist veterans who are homeless. The plan would also include an evaluation of whether and how coordination between VA and other Federal government departments and agencies would contribute to ending homelessness among veterans. The plan would include recommendations for improving VA and Federal government homelessness programs, enhancing coordination of such programs, and eliminating programs that are no longer effective. Recommendations for new programs to prevent and end homelessness among veterans, including the cost of such programs, would also be included. A timeline for implementing the plan, including milestones to track implementation and benchmarks to measure outcomes and effectiveness, would be required. Finally, the report would include consideration of the circumstances and requirements that are unique to veterans located in rural areas.

While VA has made important and meaningful progress through its 5-Year Plan and through its participation in the Federal Stra-

tegic Plan to Prevent and End Homelessness, the Committee believes that a comprehensive plan is necessary for several reasons. It would ensure that VA performs a comprehensive analysis of the existing Federal government plans, programs and services designed to end veteran homelessness in order to avoid duplication of programs or services. VA would also be required to set forth measurable goals and benchmarks for its comprehensive plan and a timeline for implementation. It would also help ensure that VA programs and services for homeless veterans are implemented consistently nationwide. Finally, it would allow Congress to ensure that adequate resources can be provided in order to achieve this mutual goal.

Sec. 205. Extension of certain authorities relating to homeless veterans.

Section 205, which is derived from S. 1148, would extend VA's authority for certain outreach, treatment, services, and programs to veterans with serious mental illnesses and to homeless veterans and their families.

Background. While there is no exact measure of the number of homeless veterans, according to data from "Veteran Homelessness: A Supplemental Report to the 2009 Annual Homeless Assessment Report to Congress," more than 136,000 people who spent at least one night in an emergency shelter or transitional housing program self-identified as a veteran in FY 2009. Numerous others are considered at risk of becoming homeless due to poverty, a lack of support from family and friends, and precarious living conditions in overcrowded or substandard housing. Congress has authorized several initiatives in an effort to provide VA with the tools it needs to address veteran homelessness.

Section 2031 of title 38, U.S.C., authorizes VA to provide outreach services, care, treatment, rehabilitative services, and certain other assistance to veterans suffering from serious mental illness. The two main health care programs administered by VA pursuant to this section are the Health Care for Homeless Veterans (hereinafter, "HCHV") program and the Domiciliary Care for Homeless Veterans program. The authority under this section is set to expire on December 31, 2011.

Section 2033 of title 38, U.S.C., directs VA, subject to the availability of appropriations, to operate a program to expand and improve its provision of benefits and services to homeless veterans. VA administers this program through its Community Resource and Referral Center (hereinafter, "CRRC") program. The authority for this program is scheduled to expire on December 31, 2011.

Section 2041 of title 38, U.S.C., authorizes VA to enter into agreements with a nonprofit or government organization in order to assist homeless veterans and their families in acquiring shelter. Under this section, VA can provide assistance to community-based and governmental service-providers through the sale, lease, or donation of property acquired through default on a direct loan or loan guaranty. No agreements may be entered into after December 31, 2011.

Finally, section 2066 of title 38, U.S.C., establishes within VA the ACHV. Membership is comprised of a range of stakeholders, including formerly homeless veterans, VSOs, State veterans affairs

officials and experts on mental health and substance abuse. Under current law, the Committee shall cease to exist on December 30, 2011.

The authorities described in this section have been extended several times, most recently in 2006, pursuant to Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006.

Committee Bill. Section 205 of the Committee bill would extend the authorities of many of VA's programs to address veteran homelessness.

Section 205(a) would amend section 2031(b) of title 38 to extend the HCHV program and the Domiciliary Care for Homeless Veterans program through December 31, 2012.

Section 205(b) of the Committee bill would amend section 2033(d) of title 38 to extend the CRRC program through December 31, 2014.

Section 205(c) of the Committee bill would amend section 2041(c) of title 38 to extend VA's authority to sell, lease, or donate property to house homeless veterans through December 31, 2014.

Section 205(d) of the Committee bill would amend section 2066(d) of title 38 to extend the ACHV through December 31, 2013.

Sec. 206. Reauthorization of appropriations for homeless veterans reintegration program.

Section 206 of the Committee bill, which is derived from S. 1148, would authorize for FY 2012 up to $50,000,000 to be appropriated for HVRP.

Background. Section 2021 of title 38, U.S.C., authorizes the DOL to carry out HVRP, subject to the availability of appropriations. HVRP is a competitive grant program that awards funding to eligible applicants to provide employment assistance and case management to homeless veterans while linking them to supportive services available in the community.

The program provides job placement, training, job development, career counseling, and resume preparation services they need in order to re-enter the labor force. Supportive services such as clothing, transportation assistance, and referral to housing, medical and substance abuse treatment resources are also provided to meet the needs of homeless veterans.

Since its inception, HVRP has featured an outreach component using veterans who have experienced homelessness. In recent years, this successful technique was modified to allow the programs to utilize formerly homeless veterans in various other positions where there is direct client contact such as counseling, peer coaching, intake, and follow-up services. Section 2021 of title 38 authorizes up to $50,000,000 to be appropriated for each fiscal year, beginning in FY 2002 through FY 2011.

Committee Bill. Section 206 of the Committee bill would amend section 2021(e)(1) of title 38, U.S.C., by authorizing up to $50,000,000 to be appropriated for HVRP in FY 2012.

Reauthorization of appropriations for HVRP is necessary to substantively and materially reduce veteran homelessness and unemployment. The Committee believes that HVRP is an important component of the continuum of services available to homeless veterans,

providing the means by which a veteran can successfully transition from homelessness to self-reliance.

Sec. 207. Reauthorization of appropriations for financial assistance for supportive services for very low-income veteran families in permanent housing.

Section 207 of the Committee bill, which is derived from S. 1148, would authorize up to $100,000,000 to be appropriated for financial assistance and supportive services for very low-income veteran families in permanent housing in FY 2012. The section would also authorize up to $1,000,000 to be appropriated to provide technical assistance regarding the planning, development, and provision of supportive services in the same fiscal year.

Background. Public Law 110–387, the Veterans' Mental Health and Other Care Improvements Act of 2008, authorized the Department to develop the Supportive Services for Veteran Families Program (hereinafter, "SSVF"). Under SSVF, VA is authorized to award grants to private nonprofit organizations and consumer cooperatives that provide supportive services to very low-income veteran families residing in or transitioning to permanent housing. Grantees provide a range of supportive services designed to promote housing stability to eligible very low-income veteran families. Such services include outreach services, case-management services, assistance obtaining benefits from VA and from other public agencies, health care services, daily living services, and other similar services.

To receive supportive services under SSVF, a qualifying veteran family is defined as a single person or a family in which the head of household or the spouse of the head of household is a veteran. The veteran family's household income cannot exceed 50 percent of area median income, as adjusted, and the veteran family must be residing in permanent housing; must be homeless and scheduled to re-enter a stable housing situation within 90 days; or must have exited permanent housing within the previous 90 days.

Section 2044 of title 38 authorizes $15,000,000 to be appropriated for FY 2009 for financial assistance and support services through SSVF, $20,000,000 in FY 2010, and $25,000,000 in FY 2011. Also, $1,000,000 is authorized for each of FY 2009 through 2011 for technical assistance. Delays attributed to the federal regulatory process resulted in the reprogramming of funding for FY 2009 and 2010. As a result, VA provided SSVF with $60,000,000 of funding for FY 2011. According to VA, 400 grants were received for the most recent notice of funds availability in 2011. The 385 grants that met the thresholds of the program requested over $238,000,000 in funding.

Committee Bill. Section 207 of the Committee bill would amend section 2044(e) of title 38 by authorizing up to $100,000,000 to be appropriated for FY 2012 for financial assistance and support services through SSVF. Section 207 would also amend section 2044(e) by authorizing for FY 2012 $1,000,000 to be appropriated for technical assistance. Finally, section 207 would make a technical amendment to section 2044(e).

Sec. 208. Reauthorization of appropriations for grant program for homeless veterans with special needs.

Section 208, which is derived from S. 1148, would authorize appropriations for the grant program for homeless veterans with special needs through FY 2013.

Background. Originally authorized pursuant to section 5 of Public Law 107–95, the Homeless Veterans Comprehensive Assistance Act of 2001, section 2061 of title 38, U.S.C., directs VA to carry out a program to make grants to health care facilities of VA and to grant and per diem providers in order to encourage development by those facilities and providers of programs for homeless veterans with special needs. The section defines veterans with special needs as those veterans who are (1) women, including women who have care of minor dependents; (2) frail elderly; (3) terminally ill; or (4) chronically mentally ill. The grant program is designed to help provide more intensive services to homeless veterans who require services above and beyond those provided by the grant and per diem program authorized under section 2011 of title 38. For each fiscal year, beginning in FY 2007 through FY 2011, $5,000,000 is authorized to be appropriated for the purposes of the program under section 2061.

Committee Bill. Section 208 of the Committee bill would amend section 2061(d)(1) of title 38, as redesignated by section 202 of the Committee bill, to authorize appropriations for this grant program through FY 2013 at $5,000,000 per fiscal year.

Sec. 209. Collaboration in provision of case management services to homeless veterans in supported housing program.

Section 209 of the Committee bill, which is derived from S. 411, would require VA to consider entering into contracts to provide case management services to eligible homeless veterans who participate in the Housing and Urban Development Veterans Affairs Supportive Housing (hereinafter, "HUD-VASH") program.

Background. HUD-VASH is a cooperative partnership between HUD and VA that provides long-term case management, supportive services, and permanent housing support for eligible homeless veterans. The HUD-VASH program began in 1992 under a memorandum of agreement between the two departments. Congress codified the program in section 12 of Public Law 107–95, the Homeless Veterans Comprehensive Assistance Act of 2001, by adding a new paragraph (19) to section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)). Public Law 107–95 also authorized HUD to allocate 500 additional HUD-VASH vouchers in each of FY 2003 through 2006. Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, authorized HUD to allocate 500 HUD-VASH vouchers in FY 2007 and to increase the amount in increments of 500 per fiscal year up to 2,500 in FY 2011.

The program is explicitly designed to provide permanent supportive housing to the most vulnerable homeless veterans by setting aside rental vouchers and providing intensive services. To be eligible, a veteran must be homeless, must be eligible for VA health care, and must need and participate in case management services in order to obtain and sustain permanent independent community housing. Eligible homeless veterans receive VA-provided case man-

agement and supportive services to promote stability and recovery from physical and mental health, substance use, and functional concerns contributing to, or resulting from, homelessness. The program goals include promoting maximal veteran recovery and independence in order to enable the veteran and his or her family to sustain permanent housing in the community. The case manager and the veteran set goals related to housing, income, employment and treatment with the ultimate goal of having the veteran fully reintegrate back into the community. To achieve this goal, the case manager works on employment and educational goals with the veteran so that the veteran can be more self-sufficient. There is also an annual review by the Public Housing Authority (hereinafter, "PHA") that evaluates income eligibility and, when the veteran exceeds income eligibility, both VA and local PHAs assist the veteran with transitioning to alternative and more independent living arrangements.

Congress appropriated funding in fiscal years 2008, 2009, and 2010 for a total of 30,000 new "Housing Choice" (section 8) vouchers for the HUD-VASH program. Congress also appropriated funding in FY 2011 for another 7,960 new vouchers to participating PHAs to assist with rent payment. According to an analysis of data by the National Alliance to End Homelessness, approximately 63,000 veterans can be classified as chronically homeless. Given the limited number of vouchers, VA must continue efforts to target the most vulnerable veterans for participation in the program, as quickly as possible. While these efforts have been successful in many areas, there are still areas where the Department has trouble recruiting the appropriate number of case managers, where the Department has trouble identifying the appropriate veteran participants, where it takes substantially more time to house eligible veterans, or where there is an extreme lack of affordable housing options.

In some areas, VA is beginning to utilize contract providers for case management. The Washington, DC, VAMC partnered with the District of Columbia Department of Human Services to run the VASH Plus program. Best practices identified through the program were the use of a vulnerability index to help identify and prioritize chronically homeless clients based on the risk of morbidity; the use of information technology solutions to streamline the information exchange between the client and the public agency; and collaboration with community partners to develop landlord relationships that helped identify housing, negotiate rental costs, and provide essentials for veterans moving into housing. Use of this model reduced the wait time from application to housing from an average of six months to an average of one month.

Committee Bill. Section 209(a) of the Committee bill would, in a freestanding provision, require VA to consult with HUD and providers who participate in the local Continuum of Care (hereinafter, "CoC") and consider entering into contracts or agreements to provide case management services to homeless veterans who are eligible to participate in the HUD-VASH program. The Committee notes that, since 2008, the Department has improved its ability to target HUD-VASH vouchers to those with the greatest need and move veterans into housing more quickly. However, the Committee believes that there is still room for improvement and the best prac-

tices identified through the DC VASH Plus program could assist the Department in reaching the goal of ending veteran homelessness.

The Committee recognizes that more veterans, and therefore more vouchers, are located in non-rural areas. However, the Committee notes that homeless veterans living at a greater distance from VAMCs still need services. VA needs to look for additional ways to extend its reach further into rural areas, to serve locations where chronically homeless veterans may be located in smaller numbers. The Committee is mindful that VASH Plus cannot and should not be done everywhere. However, the Committee is also aware of areas that might benefit from partnering with local providers to better serve chronically homeless veterans. Section 209(b) of the Committee bill defines this group as veterans who are eligible to receive a voucher and who are having trouble obtaining suitable housing, particularly those who do not live near VA facilities, those who live in areas with a shortage of low-income housing and need more intensive assistance than is usually provided, and those who reside in areas with significantly lower than average rates of obtaining suitable housing.

The requirement to consider contracting for case management is intended to encourage VA to identify locations where contracting might allow the Department to better serve chronically homeless veterans. The Committee bill requires consultation with HUD and CoCs to help VA further strengthen relationships with community providers and identify suitable entities that have the capacity to serve this challenging population. The VASH Plus program has demonstrated the benefits of coordination with local providers. Therefore, even when the Department does not choose to contract out services to local providers, it should encourage VAMCs to strengthen its relationships and coordination with local homeless providers.

Section 209(c) sets forth the parameters for entities that VA might contract with to include State or local government agencies, tribal organizations, or nonprofit agencies that agree to: provide case management services, maintain referral networks for additional entitlement and assistance programs, ensure the confidentiality of records, establish procedures for fiscal control and fund accounting, and submit information on their operations to VA annually. These agencies must also have demonstrated experience in identifying and serving homeless veterans, working collaboratively with HUD or VA, conducting outreach to and maintaining relationships with landlords, and mediating disputes between landlords and veterans.

Section 209(d) requires VA to consult with HUD and the CoC while considering whether to enter into a contract or agreement with an organization.

Section 209(e) would allow VA to provide training and technical assistance to any entities with which it collaborates to ensure compliance with program standards and the dissemination of best practice strategies, and the implementation of targeted treatment interventions through the "Housing First" model. It would also make available $500,000 per fiscal year from VA's Medical Services account to carry out the technical assistance program.

Section 209(f) would require VA to produce an annual report on the consideration of potential collaborations and any collaboration that resulted.

TITLE III—HOUSING MATTERS

Sec. 301. Short title.

Section 301 of the Committee bill would provide a short title, the "Andrew Connolly Veterans' Housing Act," for Title III of the Committee bill.

Background. Andrew Connolly served in the United States Army National Guard from November 2000 to August 2007. During his service, he completed two tours, the first in Egypt and the second in Iraq.

A year after Andrew's tour in Iraq, he was diagnosed with cancer of the spine, a service-connected condition, which would soon lead to the loss of all function and feeling below the chest. At the same time, Andrew and his wife were caring for a newborn son with a neuromuscular disorder. This condition required his son to be on a ventilator and will confine his child to a wheelchair for the rest of his life.

Andrew and his family were facing these challenges while living in a duplex built in the 1890's, which was not accessible and severely limited his ability to accomplish simple tasks. Today, Andrew is in a new house, made possible with a grant from VA's specially adapted housing program. This house was constructed specifically to allow Andrew to live as self-sufficiently as possible.

At a May 3, 2011, hearing before the House Committee on Veterans' Affairs' Subcommittee on Economic Opportunity, Andrew Connolly described in detail how the adaptive housing assistance grant has allowed him to live more self-sufficiently:

> Today I am in my new house. Today I took a shower by myself in a 5′ x 5′ roll-in shower with handicapped controls. Today I cooked my own breakfast because I could reach all of the ingredients. Today I was able to watch my son Brody sleeping in his bedroom because I could roll through his doorway with my wheelchair.

Committee Bill. Section 301 of the Committee bill would provide a short title, the "Andrew Connolly Veterans' Housing Act," for Title III of the Committee bill. The Committee believes Andrew Connolly's story highlights the significant positive impact VA's adaptive housing assistance programs can have on disabled veterans and their families.

Sec. 302. Extended period of protections for members of uniformed services relating to mortgages, mortgage foreclosure, and eviction.

Section 302 of the Committee bill, which is derived from S. 486, would extend from 9 months to 12 months after military service the period of protection against mortgage foreclosure and the period in which a court may stay a proceeding or adjust an obligation. It would also require the Comptroller General to report on certain foreclosure protections.

Background. Congress has long recognized that the men and women of our military services should have civil legal protections

so they can devote their entire energy to the defense needs of the nation.

The earliest recognition of the need to provide civil protections for servicemembers in the United States dates back to the "stay laws" promulgated by Louisiana during the War of 1812. Louisiana suspended all proceedings in civil cases for four months as the British were advancing on New Orleans.

The development of the first modern version of the Soldiers' and Sailors' Civil Relief Act (hereinafter, "SSCRA") was outlined at a hearing on the Soldiers' and Sailors' Civil Relief Bill before the Senate Subcommittee of the Committee on the Judiciary in 1917. Following the decision of the United States to enter the war in Europe in 1917, the first modern version of the SSCRA was drafted under instructions from the Judge Advocate General of the Army in six weeks by Major John Wigmore, the eminent Dean of Northwestern University's Law School, and others. In 1940, with the looming involvement of the United States in World War II, Congress again examined the needs of military personnel and reenacted the SSCRA almost verbatim. Both the SSCRA of 1918 and the SSCRA of 1940 provided legal protections to servicemembers in order to assist those who were struggling to meet financial and legal obligations while serving on active duty.

In 2003, Public Law 108–189, the SCRA, clarified and strengthened many of the SSCRA protections afforded to servicemembers. Section 303(b) of the SCRA authorized a court to stay proceedings or adjust the obligation in the case of actions filed against servicemembers, during military service or within 90 days after a period of military service, to enforce a mortgage or trust deed entered into prior to service, if the servicemember's ability to comply with the obligation had been materially affected by military service. Section 303(c) of the SCRA protected servicemembers against mortgage foreclosure without a court order during service and for a period of 90 days after a servicemember's period of military service.

Section 2203 of Public Law 110–289, the Housing and Economic Recovery Act of 2008, amended the SCRA, by extending from 90 days to 9 months after military service the period of protection for servicemembers against mortgage foreclosure and the time period during which a court may stay proceedings or adjust obligations. These protections were scheduled to expire on December 31, 2010. Public Law 111–346, the Helping Heroes Keep Their Homes Act of 2010, extended the enhanced protections through December 31, 2012.

Committee Bill. Section 302(a) of the Committee bill would amend section 303(b) of the SCRA, codified at 50 U.S.C. App. 533(b), by extending from 9 months to 12 months after military service the period in which a court may stay proceedings or adjust an obligation, or to enforce an obligation on certain real or personal property owned by the servicemember. Section 302(b) of the Committee bill would amend section 303(c) of the SCRA, codified at 50 U.S.C. App. 533(c), by extending from 9 months to 12 months after military service the period of protection for a servicemember against sale, foreclosure, or seizure of property.

Section 302(c) of the Committee bill would require the Comptroller General to submit a report to Congress on the foreclosure protections of the SCRA. Specifically, the report would include an

assessment of the effects of these protections on the long-term financial well-being of servicemembers and their families; the number of servicemembers who faced foreclosure during a 90-, 270-, or 365-day period following their completion of a period of military service; the number of servicemembers who applied for a stay or adjustment; an assessment of the effect of applying for a stay or adjustment on the financial well-being of the servicemembers; and an assessment of the Secretary of Defense's partnerships with public and private-sector entities and recommendations on how the Secretary of Defense should modify such partnerships to improve financial education and counseling.

The Committee believes that enhancing the foreclosure protections during these difficult economic times will help ensure the men and women of our military services have the civil legal protections necessary to ensure that they are able to devote their entire energy to the defense needs of the nation.

Sec. 303. Occupancy of property by dependent child of veteran for purposes of meeting occupancy requirement for Department of Veterans Affairs housing loans.

Section 303 of the Committee bill, which is derived from S. 874, would allow a veteran's dependent child to satisfy the occupancy requirements necessary to qualify for a VA-backed home loan.

Background. Current law, section 3704(c)(2) of title 38, U.S.C., states that, "[i]n any case in which a veteran is in active-duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements [for purposes of obtaining a VA-backed home loan] shall be considered to be satisfied if the spouse of the veteran occupies the property and the spouse makes the certification required by paragraph (1) of this subsection." The structure of the American family often involves single parents. Under current law, a single veteran with a dependent child is disqualified from obtaining a VA-backed home loan if he or she is on active-duty status because he or she does not have a spouse to satisfy occupancy requirements.

Committee Bill. Section 303 of the Committee bill would add to section 3704(c)(2) a provision allowing a veteran's dependent child who occupies or will occupy the property as a home to satisfy the occupancy requirements for purposes of qualifying for a VA-backed home loan if the veteran's attorney-in-fact or a legal guardian of the veteran's dependent child makes the certification required by section 3704(c)(1) of title 38.

The Committee believes this provision would allow single-parent veterans performing active-duty service to obtain a VA-guaranteed home loan in situations where a veteran's dependent child will be occupying the home. The Committee also intends that this provision apply to situations where veterans, married to each other, are both deployed.

Sec. 304. Waiver of loan fee for individuals with disability ratings issued during pre-discharge programs.

Section 304 of the Committee bill, which is derived from S. 1148, would waive the housing loan fee for veterans rated eligible to receive compensation as the result of a pre-discharge review of exist-

ing medical evidence, such as service medical and treatment records.

Background. Under current law, section 3729(c) of title 38, U.S.C., a housing loan fee may not be collected if a veteran is rated eligible to receive compensation as a result of a pre-discharge VA disability examination and rating. The time period between pre-discharge ratings and release from active-duty service can be quite long. During that time, many disabled servicemembers utilize their VA home loan benefit. Under current law, servicemembers who are rated eligible to receive compensation solely as the result of a pre-discharge review of existing medical evidence and not as the result of a VA examination are required to pay the housing loan fees until they have been discharged or released from active duty.

Committee Bill. Section 304 of the Committee bill would amend section 3729(c) of title 38 by adding a provision that waives the collection of housing loan fees from a servicemember rated eligible to receive compensation based on a pre-discharge review of existing medical evidence that results in the issuance of a memorandum rating.

The Committee believes this provision would ensure that all servicemembers eligible to receive compensation as the result of a pre-discharge program are eligible for the housing loan fee waiver, regardless of whether the eligibility was the result of an examination or a review of existing evidence.

Sec. 305. Improvements to assistance for disabled veterans residing in housing owned by a family member.

Section 305 of the Committee bill, which is derived from S. 1017, would increase the amount of assistance available to certain veterans with permanent and total service-connected disabilities to adapt a family member's residence in which the veteran is residing temporarily. It would also provide for annual automatic adjustments of the amounts of assistance and extend VA's authority to provide such assistance until December 31, 2021.

Background. Public Law 109–233, the Veterans' Housing Opportunity and Benefits Improvement Act of 2006, authorized VA to expand its previously existing adaptive housing assistance grants to include eligible individuals temporarily living in a home owned by a family member. These grants are known as Temporary Residence Adaptation (hereinafter, "TRA") grants. The benefit was extended to active duty servicemembers with the passage of Public Law 110–289, the Housing and Economic Recovery Act of 2008.

Under current law, section 2102A of title 38, the TRA grant program allows veterans and servicemembers eligible under the Specially Adapted Housing (hereinafter, "SAH") and Special Housing Adaptation (hereinafter, "SHA") programs to use up to $14,000 and $2,000, respectively, to modify a family member's home. The TRA grant program is scheduled to expire on December 31, 2011.

Section 101 of Public Law 109–233 also required the Government Accountability Office (hereinafter, "GAO") to submit to Congress a report on VA's implementation of the TRA grant program. The interim report, "Veterans Affairs: Implementation of Temporary Residence Adaptation Grants" (GAO–09–637R), and the final report, "Opportunities Exist to Improve Potential Recipients' Awareness of the Temporary Residence Adaptation Grant" (GAO–10–786) (here-

inafter, "GAO Reports"), both noted the limited participation in the TRA program. The interim report examined a number of reasons for the low usage and noted that veterans often chose to wait to take advantage of benefits to adapt their own home because the TRA grant counts against the overall amount available to an individual under the SAH or SHA grant program. One of the potential solutions GAO identified was increasing the maximum benefit available under SAH and SHA.

Committee Bill. Section 305 of the Committee bill would amend section 2102A of title 38 by increasing the amount of assistance available for individuals with permanent and total service-connected disabilities that meet the criteria of section 2101(a)(2) of title 38 from $14,000 to $28,000. It would increase the amount of assistance available for individuals with permanent and total service-connected disabilities that meet the criteria of section 2101(b)(2) of title 38 from $2,000 to $5,000.

It would add a new paragraph to section 2102A that would provide for automatic annual adjustments to the maximum grant amounts based on a cost-of-construction index already in effect for other SAH and SHA grants authorized under chapter 21 of title 38. Finally, the Committee bill would amend section 2102A of title 38 by extending VA's authority to provide assistance under the TRA grant program until December 31, 2021.

The Committee believes that the enhancements made by section 305 of the Committee bill to the TRA grant program will increase participation in the program. Further, the extension of authority for the TRA grant program provides individuals suffering from catastrophic injuries or illnesses with more flexibility during their convalescent period.

Sec. 306. Expansion of eligibility for specially adapted housing assistance for veterans with vision impairment.

Section 306 of the Committee bill, which is derived from S. 1017, would expand eligibility for VA's adaptive housing assistance grants to veterans with a lesser degree of vision impairment than what is required under current law.

Background. Under current law, section 2101(b) of title 38, U.S.C., a veteran with a permanent and total service-connected disability due to blindness in both eyes has to have visual acuity of 5/200 or less in order to qualify for certain adaptive housing assistance grants.

According to the National Eye Institute, visual acuity is defined as the eye's ability to distinguish object details and shape with good contrast, using the smallest identifiable object that can be seen at a specified distance. It is measured by use of an eye chart and recorded as test distance/target size. Visual acuity of 5/200 means that an individual must be 5 feet away from an eye chart to see a letter that an individual with normal vision could see from 200 feet.

While VA had used the 5/200 or less standard of visual acuity for blindness over the last several decades, a consensus definition of what constitutes "legal blindness" has emerged.

This consensus definition, which is the statutory definition used for the Social Security disability insurance program and the Supplemental Security Income program and which is less stringent

than VA's standard, encompasses individuals with lesser degrees of vision impairment. The American Medical Association has espoused this definition since 1934 and defines blindness as a "central visual acuity of 20/200 or less in the better eye with corrective glasses, or central visual acuity of more than 20/200 if there is a visual field defect in which the peripheral field is contracted to such an extent that the widest diameter of the visual field subtends an angular distance no greater than 20 degrees in the better eye."

In recognizing this consensus definition, Public Law 110–157, the Dr. James Allen Veteran Vision Equity Act of 2007, amended the criteria for receiving special monthly compensation to allow veterans who are very severely disabled as the result of blindness and other severe disabilities to be eligible to receive a higher rate of disability compensation if their visual acuity in both eyes is 20/200 or less.

Committee Bill. Section 306 of the Committee bill would amend section 2101(b) of title 38 by requiring central visual acuity of 20/200 or less in the better eye with the use of a standard correcting lens. It also provides that an eye with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

The Committee believes that this provision would bring the definition of blindness within chapter 21 of title 38 in line with consensus definitions and other disability rating provisions of title 38 and that veterans who are so seriously disabled as to meet the visual acuity standard of 20/200 or less should be able to take advantage of VA's adaptive housing assistance grants.

Sec. 307. Revised limitations on assistance furnished for acquisition and adaptation of housing for disabled veterans.

Section 307 of the Committee bill, which is derived from S. 1017, would exclude the TRA grant from counting towards the aggregate limitations on assistance for SAH and SHA grants.

Background. Since 1948, VA has provided adaptive housing assistance grants to eligible individuals who have certain service-connected disabilities to construct an adapted home or modify an existing home to accommodate their disabilities. Today, VA provides adaptive housing assistance primarily through two programs—SAH and SHA. Both programs are codified under chapter 21 of title 38.

The SAH grant program provides financial assistance to veterans and servicemembers who are entitled to compensation for permanent and total service-connected disability due to the loss or loss of use of multiple limbs, blindness and limb loss, or a severe burn injury. Eligible individuals may receive up to three SAH grants totaling no more than 50 percent of the cost of a specially adapted house, up to the aggregate maximum amount for fiscal year 2011 of $63,780. This amount is adjusted annually based on a cost-of-construction index. Grants may be used to construct a house or remodel an existing house, or they may be applied against the unpaid principal mortgage balance of a specially adapted house. The SHA grant program—which is similar to SAH but is for individuals with slightly less serious disabilities—may be used for slightly different purposes and cannot exceed $12,756 during fiscal year 2011. This

amount is also adjusted annually based on a cost-of-construction index.

P.L. 109–233, the Veterans' Housing Opportunity and Benefits Improvement Act of 2006, authorized VA to expand its previously existing adaptive housing assistance grants to include eligible individuals temporarily living in a home owned by a family member. The TRA benefit, codified at section 2102A of title 38, U.S.C., allows veterans to apply for a grant to adapt the home of a family member with whom they are temporarily residing. The benefit was extended to active duty servicemembers with the passage of Public Law 110–289, the Housing and Economic Recovery Act of 2008. The TRA grant program enables veterans and servicemembers eligible under the SAH and SHA programs to use up to $14,000 and $2,000, respectively, to modify a family member's home.

Under current law, section 2102(d), each TRA grant counts as one of the three grants allowed under either SAH or SHA. TRA grants also count toward the maximum allowable fiscal year 2011 amount of $63,780 under SAH and $12,756 under SHA.

As described in section 309, GAO's congressionally-mandated reports on the TRA grant program noted the limited participation in the TRA program. GAO found that one of the reasons for the low usage was that veterans often chose to wait to take advantage of benefits to adapt their own home because the TRA grant amount counts against the overall amount available to an individual under the SAH or SHA grant programs. One of the potential solutions GAO identified was no longer counting TRA grants against the maximum funds available under SAH and SHA.

Committee Bill. Section 307 of the Committee bill would amend section 2102(d) of title 38 to exclude the TRA grant from the aggregate limitations on assistance furnished to an eligible veteran or servicemember pursuant to section 2102 of title 38. TRA grants would no longer be counted against the maximum funds available under SAH and SHA grants.

The Committee believes this change would increase participation in the TRA grant program.

TITLE IV—COMPENSATION AND PENSION MATTERS

Sec. 401. Increase in rate of pension for disabled veterans married to one another and both of whom require regular aid and attendance.

Section 401 of the Committee bill, which is derived from S. 1060, would increase the benefit paid to married couples when both are veterans who qualify for A&A.

Background. Veterans of a period of war who meet income, net worth, and other eligibility criteria are eligible to receive a pension based upon need. The amount of the pension also is based upon the number of dependents of the veteran. Additional benefits are paid if the veteran has a disability that results in housebound status or a need for A&A. In general, when a veteran is married to another veteran, the pension benefits paid are the same as for a veteran who is married to a non-veteran. However, in cases where one or both members of a veteran couple are housebound, the housebound veterans each receive an additional amount. If one member of the veteran couple is in need of A&A, that veteran receives an addi-

tional amount. However, if both members need A&A, one member receives the full additional amount and the other receives a reduced amount.

In 1998, section 8206 of Public Law 105–178, the Transportation Equity Act for the 21st Century, increased the benefit for a veteran who requires aid and attendance by $600 per year. Because of the way the bill was drafted, the benefit was increased for only one of the veterans in the rare case that a veteran is married to another veteran who requires A&A. The legislative history does not indicate any intent to treat these spouses differently. According to VA, there are fewer than 75 such cases. Therefore, under current law, a veteran who is married to another veteran and both qualify for A&A benefits, the benefit amount for one of the spouses is $825 per year lower than for the other spouse.

Committee Bill. The Committee bill would increase the benefit paid to married couples where both members of the couple are veterans and both qualify for A&A by $825.00 per year.

Sec. 402. Authority for retroactive effective date for awards of disability compensation in connection with applications that are fully-developed at submittal.

Section 402 of the Committee bill, which is derived from S. 423, would allow up to a 1 year retroactive effective date for certain awards of disability compensation that are based on claims that are fully-developed when submitted to VA.

Background. Under section 221 of Public Law 110–389, the Veterans' Benefits Improvement Act of 2008, VA was required to conduct a pilot project to test "the feasibility and advisability of providing expeditious treatment of fully developed compensation or pension claims to ensure that such claims are adjudicated not later than 90 days after the date on which such claim is submitted as fully developed." After carrying out that pilot at 10 VA regional offices, VA expanded the fully-developed claim process to all VA regional offices. At a July 14, 2010, hearing before the Committee, VA's Acting Under Secretary for Benefits explained that, "if VA receives all of the available evidence when the claim is submitted, the remaining steps in the claims-decision process can be expedited without compromising quality."

However, under current law, there is a potential disincentive for veterans to file fully-developed claims. That is because, under section 5110(a) of title 38, U.S.C., the effective date of an award of disability compensation generally is the date on which VA received the application for those benefits. Although there are exceptions to that general rule, none of the exceptions would allow a retroactive effective date for veterans who file fully-developed claims. Accordingly, if a veteran takes time before filing a claim to gather the necessary information and evidence so as to ensure that the claim is fully-developed, the veteran could potentially lose out on benefits for the period between when the veteran began gathering the evidence and when he or she ultimately filed a fully-developed claim.

Committee Bill. Section 402 of the Committee bill would amend section 5110 of title 38 to provide that the effective date of an award of disability compensation to a veteran who submitted a fully-developed claim would be based on the facts found but would not be earlier than 1 year before the date on which VA received the

veteran's application. That change would take effect on the date of enactment and would not be applied to claims filed after September 30, 2012.

It is the Committee's expectation that, by allowing an effective date up to 1 year earlier than the date on which a fully-developed claim is filed, more veterans will be encouraged to file fully-developed claims and in return receive faster decisions on their claims.

Sec. 403. Modification of month of death for surviving spouses of veterans who die while entitled to compensation or pension.

Section 403 of the Committee bill, which is derived from S. 874, would amend current law in order to clarify that a surviving spouse of a veteran who is receiving compensation or pension from VA is due the amount of benefits the veteran would have received for the entire month of the veteran's death, regardless of whether the surviving spouse is otherwise entitled to survivor benefits. Also, if at the time of death the veteran had a claim pending for compensation or pension that was subsequently granted, the surviving spouse would be eligible for any benefits or additional benefits due as accrued benefits for the month of death.

Background. VA has experienced considerable difficulty in administering month-of-death payments for surviving spouses because of the confusion in current law among various provisions and because certain automated procedures used by VA for termination and recovery of benefits paid to veterans for the month of their deaths are not consistent with current law. As a demonstration of the scope of this situation, Committee oversight led VA to pay over $65 million to survivors who had been wrongfully denied benefits to which they were entitled for the month of death.

Under current law, veterans' benefits for a specific month are paid in the month following the month to which they are attributable. No benefits are owed to a veteran for the month in which a veteran dies. For example, if a veteran is receiving VA compensation or pension for the month of January, the check or payment for January would be provided in February. If a veteran receiving such benefits dies in February, no benefits for the month of death would be payable to the veteran, meaning that no benefits would be provided in March. However, if the veteran had a surviving spouse, the month of death provision in current law, section 5310 of title 38, provides that the amount of benefits that the veteran would have received for February had the veteran not died is payable to the surviving spouse.

Section 5310 also provides that, if the benefit payable to a surviving spouse as death compensation, dependency and indemnity compensation (hereinafter, "DIC"), or death pension is less than the amount that the veteran would have received for that month but for the veteran's death, the greater benefit would be paid for the month of death.

This latter provision has caused considerable confusion because it is not fully consistent with other provisions of current law concerning effective dates for survivor benefits. Under section 5110(d) of title 38, the effective date of an award of death compensation, DIC, or death pension for which application is received within 1 year from the date of a veteran's death is the first day of the month in which the death occurred. Thus, if the veteran dies in February,

the effective date of DIC or death pension would be February 1 if the surviving spouse applied for benefits within 1 year of the veteran's death. If the application for survivor benefits is received after the 1-year period, the effective date is the date the application is received.

Under section 5111(a) of title 38, payment of VA benefits, including survivor benefits, is not made for the month of the effective date of the benefit, but is paid for the first calendar month following the month in which the award became effective. For example, the first month for which benefits would be paid to the surviving spouse of a veteran dying in February, which would mean a February 1 effective date, would be the calendar month of March. As noted above, the check or payment for March would be issued at the beginning of April. Absent the month of death provision, the survivor would experience a gap in income with no benefit paid for either the deceased veteran or the surviving spouse in the month of March.

Although section 5111(c)(1) of title 38 appears to provide an exception for month-of-death payments when the DIC or death pension for the month of death would be greater than the amount that would have been paid to the deceased veteran for that month had the veteran lived, the language of paragraph (1) of that section does not clearly authorize a payment with a different effective date or a different commencement date than provided by sections 5110 or 5111(a). Because a surviving spouse eligible for benefits as the survivor of a veteran who died in February would not have those benefits commence until March and would receive the first DIC payment in April, it appears that there are no circumstances under which a surviving spouse could qualify for payments of both a month-of-death benefit for the month of February and a survivor benefit for the same month.

VA has information concerning the identity and status of any spouse receiving benefits as a dependent on the veteran's compensation or pension award, such as a veteran receiving additional compensation payable under section 1115 at the rate of 30 percent or higher or pension benefits for married veterans specified in section 1521. In cases involving such dependency relationships, VA has recently begun issuing month-of-death benefits to surviving spouses upon notification of the death of a veteran, whose surviving spouse was a dependent on the veteran's compensation or pension award as of the date of death. In cases in which VA does not have information concerning the existence, identity, or status of a surviving spouse, VA is not able to comply with the requirement for a month-of-death payment without obtaining additional information. In such cases, VA is sending the veteran's estate a notice that includes information concerning the month-of-death payment and advises the estate concerning the procedures necessary in order for a payment to be made.

Committee Bill. Subsection (a) of section 403 of the Committee bill would amend subsection (a) and (b) of section 5310 of title 38 to clarify that a payment for the month of a veteran's death would be made to a surviving spouse of a veteran who, at the time of the veteran's death, was receiving compensation or pension or to a surviving spouse of a veteran who is determined as having been enti-

tled to receive compensation or pension for the month of the veteran's death.

Subsection (a) of section 403 of the Committee bill would further amend subsection (a) of section 5310 to specify that the amount of a payment for the month of a veteran's death is the amount that the veteran would have received for that month if the veteran had not died and to specify that any benefits payable for the month of death for a veteran who was not receiving those benefits as of the date of death would be paid as accrued benefits.

Subsection (a) of section 403 of the Committee bill would further amend subsection (b) of section 5310 of title 38 to clarify that, if a claim for entitlement to compensation or additional compensation under chapter 11 of title 38 or pension or additional pension under chapter 15 of title 38 was pending at the time of the veteran's death and the pending claim was subsequently granted, any additional benefits for the month of death would be paid as accrued benefits under section 5121 of title 38.

Subsection (b) of section 403 of the Committee bill would amend subsection (c) of section 5111 of title 38 to provide that month-of-death payments under section 5310 are exempt from the delayed commencement of benefits provision otherwise applicable under section 5111.

Subsection (c) of section 403 of the Committee bill would provide that the changes made by that section would apply in cases of deaths that occur on or after the date of enactment of this legislation.

The Committee expects that section 403 of the Committee bill, if enacted, will remove any confusion in current law and improve VA's ability to pay a surviving spouse the benefits due for the month of a veteran's death.

Sec. 404. Automatic waiver of agency of original jurisdiction review of new evidence.

Section 404 of the Committee bill, which is derived from S. 1148, would automatically waive the review of certain new evidence by the agency of original jurisdiction (hereinafter, "AOJ") so that certain new evidence submitted after the filing of a substantive appeal will be subject to initial review by the Board of Veterans' Appeals (hereinafter, "Board"), unless review by the AOJ is requested.

Background. Current law precludes the Board's initial consideration of evidence submitted in connection with a claim, unless the claimant waives the right to initial consideration by the AOJ. Evidence must first be considered by the AOJ in order to preserve a claimant's statutory right under section 7104 of title 38 to one review on appeal.

This requirement frequently delays the final adjudication of claims because claimants often submit additional evidence in support of their claims following the filing of a substantive appeal. Under current procedures, upon submission of this new evidence, the AOJ must review the new evidence and the claims file and prepare a new decisional document called the supplemental statement of the case (hereinafter, "SSOC"). If the claimant submits additional evidence to the Board without waiving the right to initial AOJ consideration, the Board must remand the claim to the AOJ for initial consideration. This process can occur multiple times if

the veteran submits additional evidence after the AOJ issues the SSOC.

Committee Bill. Section 404 of the Committee bill would amend section 7105 of title 38 by creating a new subsection, (e), to incorporate an automatic waiver of the right to initial consideration of certain evidence by the AOJ. The evidence subject to the waiver is evidence, in connection with the issue or issues with which disagreement has been expressed, submitted by the claimant, or his or her representative to the AOJ or the Board concurrently with or after the filing of a substantive appeal. Such evidence would be subject to initial consideration by the Board, unless the appellant or his or her representative requests in writing that the AOJ initially consider the evidence. The request would be required to be submitted with the evidence. These changes would take effect 180 days after enactment and apply with respect to claims for which a substantive appeal is filed on or after that date.

The Committee believes that the establishment of an automatic waiver would necessarily improve the timeliness of processing appeals. This automatic waiver would reduce the amount of time it takes the AOJ to certify an appeal to the Board and avoid time-consuming remands for an initial review of new evidence. Further, the claimant's right to initial consideration by the AOJ is also protected by permitting claimants to obtain initial consideration by the AOJ by requesting such review in writing.

TITLE V—MEMORIAL, BURIAL, AND CEMETERY MATTERS

Sec. 501. Prohibition on disruptions of funerals of members or former members of the Armed Forces.

Section 501 of the Committee bill, which is derived from S. 815, would increase the space and time restrictions and liability for those protesting at military funerals.

Background. During the 109th Congress, two bills were passed to create limitations on protesting at military funerals. When introducing S. 4042, a bill to amend title 18, U.S.C., to prohibit disruptions of funerals of members or former members of the Armed Forces, which later became Public Law 109–464, Senator Durbin pointed out that in the 16 months leading up to the introduction of the bill, there had been 129 intentional disruptions of military funerals, underlining the necessity for protecting the sanctity of military funerals.

The passage of Public Law 109–464 had been preceded by the passage of Public Law 109–228, the Respect for America's Fallen Heroes Act. Although similar in nature and intent, these laws cover different jurisdictional areas and include differing definitions as to what constitutes prohibited behavior with respect to a military funeral.

Specifically, Public Law 109–228 established a new section 2413 in title 38, U.S.C., which prescribes specific limitations on demonstrations at cemeteries under the control of the National Cemetery Administration (hereinafter, "NCA") and ANC. Under section 2413, a person may not demonstrate on the property of a cemetery under the control of NCA or ANC without prior authorization. Also, a person may not demonstrate during the period beginning 60 minutes before and ending 60 minutes after a funeral or memorial

service at these cemeteries if (1) the demonstration takes place within 150 feet of the road, pathway, or other egress or ingress point and includes "any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral", or (2) the demonstration is within 300 feet of the cemetery and impedes the access to or egress from the cemetery. Additionally, section 2413 specifically defines demonstrations to include activities such as picketing, amplified speech, or distributing leaflets. By doing so, the statute only precludes a narrow subset of speech and does not prohibit all speech in or around the cemetery. The penalty for violating this section is up to 1 year in prison and/or a fine, as set forth in section 1387 of title 18, U.S.C.

P.L. 109–464 established section 1388 of title 18, U.S.C. This law addresses disruptions at funerals of servicemembers or former servicemembers that take place in cemeteries other than NCA or part of ANC. The statute prohibits, within the period starting 60 minutes before and ending 60 minutes after a military funeral, any activity that takes place within the boundary of the funeral location or is within 150 feet of the point of intersection between the boundary of the funeral location and the entrance or other ingress or egress point of the funeral location and "includes any individual willfully making or assisting in the making of any noise or diversion that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral with the intent of disturbing the peace or good order of that funeral." Section 1388 also prohibits any activity within the same timeframe that is within 300 feet of the boundary of the location of a funeral and "includes any individual willfully and without proper authorization impeding the access to or egress from such location with the intent to impede the access to or egress from such location." Under section 1388(b), the penalty for violating this section is up to 1 year in prison and/or a fine.

In March 2011, the United States Supreme Court ruled in *Snyder* v. *Phelps*, 131 S. Ct. 1207 (2011), that the Free Speech Clause of the First Amendment protected the Westboro Baptist Church from state tort liability for intentional infliction of emotional distress and intrusion upon seclusion. Although the Court spoke to what constituted protected speech in the case, the Court made no ruling on the Constitutionality of buffer zones in the context of military funerals. However, the Supreme Court did note: "[E]ven protected speech is not equally permissible in all places and at all times * * *. Westboro's choice of where and when to conduct its picketing is not beyond the Government's regulatory reach—it is subject to reasonable time, place, or manner restrictions." (Internal quotations and citations omitted.)

Committee Bill. Section 501 of the Committee bill would amend section 1388 of title 18, U.S.C., to expand the prohibition against certain activities at any funeral of a member or former member of the Armed Forces, which does not take place at a cemetery under the control of NCA or ANC.

Under the Committee bill, it would be unlawful for any person to engage in a prohibited activity during the period beginning 120 minutes before and ending 120 minutes after a funeral of servicemembers or former members of the Armed Forces. Specifically, the

bill would prohibit an activity during that time by individuals within 300 feet of the intersection between the boundary of the property where the funeral takes place and a road or other route of ingress to or egress from the funeral location, if the activity includes any individual "willfully making or assisting in the making of any noise or diversion, that is not part of such funeral and that disturbs the peace and good order of such funeral, and with the intent of disturbing the peace and good order of such funeral." It would also prohibit during that time activity within 500 feet of the boundary of the funeral location, if the activity includes an individual willfully and with intent impeding or tending to impede the access to or egress from the funeral location.

The Committee bill would establish a prohibition, within section 1388, for intentionally disturbing persons at the homes of surviving family members of the deceased servicemember or veteran. Specifically, it would be unlawful to engage in an activity during the period beginning 120 minutes before and ending 120 minutes after a military funeral, if the activity is on or near the boundary of the home of an immediate family member of the deceased person and the activity includes an individual willfully making a noise or diversion that disturbs or tends to disturb the peace of the individuals at that location and is intended to disturb that peace. The Committee believes it necessary to protect the sanctity of the homes of these grieving family members. This provision only precludes speech that disturbs and is directed at the family home, but does not prohibit other forms of protected speech within the surrounding area. In *Frisby* v. *Schultz*, 108 S. Ct. 2495 (1988), the Supreme Court acknowledged that people in their homes are captive audiences where, unlike in public, they cannot be expected to avoid speech which they may deem offensive. The Committee believes that the government has a significant interest in protecting servicemembers' families while they are grieving in the sanctity of their own homes. Like the Court in *Frisby*, the Committee believes that homes—and in this case, the homes of grieving family members—are the last refuge for its occupants.

Under the Committee bill, section 1388 would be further amended by adding subsections on civil remedies, actual and statutory damages, and a rebuttable presumption. Specifically, subsection 1388(c) would provide that district courts of the United States would have jurisdiction to prevent and restrain violations of section 1388 and to adjudicate claims for relief under that section. It would also authorize the Attorney General to institute legal proceedings with regard to violations of section 1388. Further, subsection 1388(c) would provide that any person, including a surviving member of the deceased person's immediate family, who suffers injury due to conduct prohibited by section 1388 may sue in United States district court or other courts of competent jurisdiction and may recover damages found in new subsection 1388(d), the cost of the suit, and reasonable attorneys' fees. Finally, subsection 1388(c) would provide that a judgment in favor of the government in a criminal proceeding related to a violation of section 1388 would estop the defendant from denying the allegations with respect to that crime in a later civil proceeding.

Further, section 1388 would be amended by the Committee bill by adding subsection 1388(d), which would provide that, in addition

to any criminal penalty, a violator of section 1388 would be liable in a civil proceeding for either actual or statutory damages. The person bringing forth the civil action may elect to recover either actual damages or statutory damages, which statutory damages would be set at a sum of not less than $25,000 or more than $50,000 per violation. Subsection 1388(d) would entitle the Attorney General to recover an award of statutory damages for each violation involved in the action notwithstanding those awarded to the immediate family of the deceased individual.

The Committee bill would establish a new subsection 1388(e), which would set forth a rebuttable presumption that a violation of section 1388 was committed willfully for the purposes of relief under the section, if the violator or person acting in concert with the violator did not have reasonable grounds to believe, due to the attention or publicity sought or other circumstance, that the conduct would not disturb the peace or good order of the funeral, impede or tend to impede the access to or egress from the funeral, or disturb or tend to disturb the peace on or near the residence of any surviving member of the deceased individual's family.

Section 501 of the Committee bill would also amend section 2413 of title 38, U.S.C., to expand the prohibition against certain demonstrations and disruptions at cemeteries under the control of NCA and ANC. The Committee bill would not affect the current prohibition, found in section 2413, against any person demonstrating on the property of a federally controlled cemetery without proper approval from the cemetery superintendent or director. However, under section 501, it would also be unlawful to engage in a demonstration in the period from 120 minutes prior to 120 minutes after a funeral or memorial service if: any part of the demonstration takes place within the boundary of the cemetery or takes place within 300 feet of the intersection between the boundary of the cemetery and the road or other route of ingress and egress from the cemetery; includes anyone willfully making or assisting in making any noise or diversion that is not part of the funeral; disturbs or tends to disturb the peace or good order of the funeral; and is intended to disturb the peace or good order of the funeral. It would also be unlawful to demonstrate within 500 feet of the boundary of the cemetery, if the demonstration includes anyone willfully and without proper authorization impeding or tending to impede the access to or the egress from the cemetery, with the intent to do so. The Committee bill would add subsection 2413(b), which would include the penalty for violating section 2413. The current penalties for a violation of section 2413 are found in section 1387 of title 18, U.S.C. The Committee bill would add subsection 2413(b) to clarify what the penalties are directly in title 38.

The Committee bill would amend section 2413 of title 38, U.S.C., by adding subsections on civil remedies, actual and statutory damages, and a rebuttable presumption. Specifically, subsection 2413(c) would provide that district courts would have jurisdiction to prevent and restrain violations of section 2413 and to adjudicate claims for relief under that section. It would also authorize the Attorney General to institute legal proceedings with regard to violations of section 2413. Further, subsection 2413(c) would provide that any person, including a surviving member of the deceased person's immediate family who suffers injury due to conduct prohib-

ited by section 2413, may sue in district court or other courts of competent jurisdiction and may recover damages found in new subsection 2413(d), the cost of the suit, and reasonable attorneys' fees. Finally subsection 2413(c) would provide that a judgment in favor of the government in a criminal proceeding related to a violation of section 2413 would estop the defendant from denying the allegations with respect to that crime in a later civil proceeding.

The Committee bill includes a new subsection 2413(d), which would provide that, in addition to any criminal penalty, a violator of section 2413 would be liable in a civil proceeding for either actual or statutory damages. The person bringing forth the civil action may elect to recover either actual damages or statutory damages, which statutory damages would be set at a sum of not less than $25,000 or more than $50,000 per violation. Subsection 2413(d) would entitle the Attorney General to recover an award of statutory damages for each violation involved in the action notwithstanding those awarded to the immediate family of the deceased individual.

Additionally, new subsection 2413(e) would establish a rebuttable presumption that a violation of 2413(a) was committed willfully for the purposes of determining relief, if the violator or a person acting in concert with the violator did not have a reasonable expectation to believe, either from the publicity sought or other circumstance, that the conduct would not disturb or tend to disturb the peace and good order of the military funeral, or impede or tend to impede the access to or egress from the funeral.

The Committee understands the critical importance of the First Amendment and, specifically, the rights found within the Free Speech Clause. However, the freedom of speech in the United States is not unlimited. The Supreme Court has ruled that the time, place, and manner of speech can be limited by the government if the restriction is content neutral, serves a significant government interest, is narrowly tailored to serve a significant government interest, and leaves ample alternative channels for communication. As discussed below, the Committee believes that the changes to section 1388 of title 18, U.S.C., and section 2413 of title 38, U.S.C., meet this test and uphold the rights found within the Free Speech Clause, while at the same time protecting the sanctity and decorum of military funerals.

The prohibitions in both sections are content neutral as they apply to all offenders, not a specific group or view point. The Committee believes that the restrictions in both sections are narrowly tailored to meet a significant government interest and thus would meet the thresholds outlined in previous Supreme Court cases. For example, section 1388 would only prohibit a very specific subset of speech: "making or assisting in making of any noise or diversion * * * that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral." Also, to be prohibited, that speech must take place at the cemetery or within 300 feet of the boundary of the cemetery and the intersection with a road or access point to the funeral location and there must be an intent to disturb the peace and good order of the funeral. In addition, those restrictions would apply only during the period starting 120 minutes before and ending 120 minutes after a military funeral. Individuals and/or groups would be free to uti-

lize their free speech rights outside of the 300 foot buffer or at a different time. The 300 foot buffer is designed to balance individual rights to protest, and at the same time protect families at a funeral who are captive for a set period of time while laying their military family members to rest. The Committee believes that the amended restrictions, which would be set forth by the Committee bill, are narrowly tailored so as to allow ample alternate channels for speech while protecting the sanctity and decorum of military funerals.

Under sections 1388 and 2413, as would be amended by the Committee bill, it would be unlawful, during a limited period of time, for an individual to demonstrate or conduct activities within 500 feet of the boundary of a cemetery where a military funeral is to be held, and to impede or tend to impede the access to or egress from the funeral with the *intent* of doing so. The government has a significant interest in allowing the free flow of people and vehicles into and out of the location of a military funeral. Family members of a deceased servicemember should be able to attend the funeral and should not be precluded from access to the funeral. The 500 foot prohibition against impeding access does not restrict any more speech than is necessary to meet the government's interest.

The Constitution enumerates a number of powers explicitly given to Congress to exercise. These powers provided under the Constitution, article I, section 8, include the power to provide for the common defense, raise and support armies, provide and maintain a navy, make rules for government and regulation of the land and naval forces, and provide for organizing and governing such part of the militia as may be employed in the service of the United States. The Committee believes that by further protecting the sanctity and dignity of military funerals, Congress is utilizing its authority to make laws that are necessary and proper to exercise its enumerated powers as listed above. In order for Congress to meet its obligations in article I, section 8, the dignity of servicemembers, veterans, and their families must be protected by specifically allowing fallen servicemembers and veterans to be laid to rest in a dignified way.

A number of states have passed laws with the intent of protecting the dignity of military funerals within their jurisdiction. These state laws vary in scope and have no uniform time, place, and manner restrictions. The Committee believes that protecting the sanctity of a military funeral is of high national importance, and all families of deceased servicemembers should have the same protection, regardless of where they choose to bury their loved ones.

The Committee bill amends both sections 1388 and 2413 by allowing the Attorney General to institute proceedings due to violations of either section. The amended sections also make violating either section a civil offense, where a finding in favor of the plaintiff carries the award of actual or statutory damages. The Committee notes that it does not appear that the Federal government has been enforcing the statutes as they are currently constructed. By allowing for civil actions to be brought by other injured parties, setting forth damages, and authorizing the Attorney General to start proceedings, the Committee believes there will be a uniform

process for protecting the dignity of military funerals, both through governmental and non-governmental action.

Sec. 502. Codification of prohibition against reservation of gravesites at Arlington National Cemetery.

Section 502 of the Committee bill, which is derived from S. 698, would amend chapter 24 of title 38, U.S.C., by requiring that not more than one gravesite may be provided at ANC to an eligible veteran or member of the Armed Forces. The section would also prohibit the reservation of gravesites at ANC for individuals not yet deceased, and would require that the Army submit to Congress, within 180 days of the date of this section's enactment, a report on reservations made for interment at ANC.

Background. Army Regulation 290–5, Paragraph 4–14, states that ANC selection of specific gravesites or sections is not authorized. Despite a stated policy against preferential treatment and the reservation of gravesites, The Washington Post reported that in recent years ANC had repeatedly provided preferential treatment to VIPs by setting aside select and prestigious gravesites for their future use. The March 2011 article, titled "Arlington Cemetery Struggles with old reservations," is excerpted in relevant part:

> Although [ANC] stopped formally taking reservations in 1962, the practice of reserving choice grave sites continued, if unofficially, under Raymond J. Costanzo, who was superintendent from 1972 to 1990. [John C. Metzler, Jr.], his successor, who ran the cemetery until he was forced to retire last year, also apparently allowed people to pick areas of the cemetery where they wanted to be buried, Army officials said.
>
> The Army, which investigated the matter two decades ago and is looking into it again, has a list from 1990 with "senior officials" who have plots that "were de facto reserved in violation of Army policy," according to a memo obtained by The Post under the Freedom of Information Act. Some of these officials were driven around the cemetery by Costanzo, who told investigators that he had allowed them to pick their spots.
>
> "I take the position that if there is anything I can do positively for a person, I will try to do that as long as it is not a serious violation of any rule, regulation, or law," he told investigators at the time.

Media reports regarding preferential treatment of and reservations for certain people, coupled with a 2010 investigation of ANC by the Army Inspector General, reflect a series of problems with the previous management of ANC. As ANC works to build accountability and transparency in its management and operations, the issue of gravesite reservations remains a paramount concern.

Committee Bill. Section 502 would codify the Army regulations that ban reserving gravesites and would provide accountability and transparency. The section would amend chapter 24 of title 38, U.S.C., by requiring that not more than one gravesite at ANC be provided to eligible veterans or members of the Armed Forces, unless a waiver is made by the Secretary of the Army as considered

appropriate. This requirement would apply with respect to all interments at ANC after the date of the enactment of this section.

Section 502 would also prohibit the reservation of gravesites at ANC for individuals not yet deceased. This prohibition would not apply with respect to the interment of an individual for whom a request for a reserved gravesite was approved by the Secretary of the Army before January 1, 1962—when ANC formally stopped accepting reservations.

A reporting requirement would also be imposed by the section. Not later than 180 days after the enactment of this section, the Army would be required to submit to Congress a report on reservations made for interment at ANC. The report would describe the number of requests for reservations at ANC that were submitted to the Secretary of the Army before January 1, 1962. The report would also describe the number of gravesites at ANC that, on the day before the date of the enactment of this section, were reserved in response to such requests. The number of such gravesites that, on the day before the enactment of this section, were unoccupied would also be included in the report. Additionally, the report would list all reservations for gravesites at ANC that were extended by individuals responsible for the management of ANC in response to requests for such reservations made on or after January 1, 1962.

Finally, the report would detail the measures that the Army is taking to improve the accountability and transparency of gravesite reservations at ANC and any recommendations for legislative action necessary to improve such accountability and transparency.

The Committee believes that this section is necessary to ensure that qualified servicemembers and veterans are honored at ANC without regard to rank or status. In light of the extraordinary sacrifices made by America's men and women in uniform, it is paramount that their burials at ANC occur with integrity, in a manner befitting such sacrifice, and in accordance with Army policy and regulation.

Sec. 503. Expansion of eligibility for presidential memorial certificates to persons who died in the active military, naval, or air service.

Section 503 of the Committee bill, which is derived from S. 874, would expand eligibility for presidential memorial certificates to eligible friends and family of any servicemember who died in active military, naval or air service.

Background. Under current law, section 112 of title 38, U.S.C., eligibility for presidential memorial certificates is limited to survivors of veterans who were discharged from service under honorable conditions. Under the statutory definition of "veteran," for purposes of this section, an individual who died in active service, including an individual killed in action, technically is not a veteran because the individual was not "discharged" from service. Therefore, under current law, the survivors of such an individual are not eligible for a presidential memorial certificate for honoring the memory of the deceased individual.

Committee Bill. Section 503 of the Committee bill would amend section 112 of title 38 by allowing VA to provide presidential memorial certificates to the next of kin, relatives, or friends of a servicemember who died in active military, naval, or air service.

TITLE VI—CONSTRUCTION MATTERS

Sec. 601. Authorization of fiscal year 2012 major medical facility projects.

Section 601 of the Committee bill would authorize VA to carry out the construction of new major medical facility projects in FY 2012 in Seattle, Washington, and in West Los Angeles, California.

Background. Section 8104 of title 38, U.S.C., requires statutory authorization for all VA major medical facility construction projects prior to the appropriation or expenditure of funds. Two new projects warrant immediate FY 2012 authorization: Seattle, Washington, and West Los Angeles, California.

The Seattle project will correct seismic deficiencies identified at Building 100, which contains both the Nursing Tower and Community Living Center (hereinafter, "CLC") at the Seattle Campus. According to the Department, over 90 percent of all patient activity at this facility goes through Building 100 on any given day. The nursing tower in Building 100 ranks eighth and the CLC in Building 100 ranks sixteenth among the buildings on the exceptionally high risk list of VA's Seismic Inventory report. The Seattle project has already received $4,300,000 in budget authority to begin design. The total estimated cost associated with this project is $51,800,000.

The West Los Angeles project would seismically retrofit and renovate twelve buildings to house research, mental health, and homeless veterans programs. These buildings are designated as exceptionally high risk on VA's Seismic Inventory report and have a number of life safety and facility condition deficiencies. The West Los Angeles project has already received $15,500,000 in budget authority to begin design. The total estimated cost associated with this project is $346,900,000. For FY 2012, VA requested the authority to add Building 209 to the project and to obligate $20,000,000 of additional resources from prior year unobligated major construction funds to complete this renovation, for a total of $35,500,000.

Committee Bill. Section 601 of the Committee bill would authorize appropriations of an amount not to exceed $51,800,000 to conduct seismic corrections for Building 100 at the VAMC in Seattle, Washington. It would also authorize appropriations of an amount not to exceed $35,500,000 to conduct seismic corrections and renovation of various buildings at the VAMC in West Los Angeles, California.

Sec. 602. Modification of authorization for certain major medical facility construction projects previously authorized.

Section 602 of the Committee bill would modify previously authorized major medical facility construction projects in Fayetteville, Arkansas; Orlando, Florida; Palo Alto, California; San Juan, Puerto Rico; and St. Louis, Missouri.

Background. Section 8104 of title 38, U.S.C., requires authorization of any major medical facility construction project or lease. Section 8104(d)(2)(A) of title 38 requires that unobligated funds that are a direct result of bid savings from major medical facility construction projects may only be obligated for major medical facility projects authorized in the current or previous fiscal years. VA re-

quested that Congress modify previous authorizations for five major medical facility projects.

Congress has authorized, through Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, up to $56,163,000 to be appropriated to construct a clinical addition at the VAMC in Fayetteville, Arkansas, to address projected workload growth. $93,000,000 was appropriated but $2,400,000 was reprogrammed to the Filipino Equity Compensation Fund in 2010. Due to a favorable market, VA has realized $16,000,000 in savings on this project and has requested authorization to reinvest $13,500,000 to address parking shortages by constructing a 522-space parking garage.

VA was authorized through Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, to fund an amount up to $377,700,000 for land acquisition and construction of a 134-bed new medical facility, a large medical clinic, a 120-bed community living center, a 60-bed domiciliary, and support services in Orlando, Florida. This authority was increased by Public Law 110–387, the Veterans' Mental Health and Other Care Improvements Act of 2008, to up to $656,800,000. Congress appropriated $665,400,000. Due to a favorable market, VA has realized $111,243,000 in savings on this project and has requested authorization to reinvest $62,001,000 on energy projects and the creation of a Simulation, Learning, Education and Research Network Center.

VA's Palo Alto Health Care System was authorized to construct a replacement Ambulatory Care Center, a replacement PRC, a blind rehabilitation facility, a 600 stall parking structure, and a research facility. The project received a $194,877,000 appropriation and was one of several Level I PRCs authorized through Public Law 110–252, the Supplemental Appropriations Act, 2008. VA has requested that this project be authorized at the total estimated cost of $716,600,000 for completion.

The project in San Juan seismically upgrades the main hospital building, provides asbestos abatement, provides fire sprinklers, and allows VA to sustain operations in the wake of a natural disaster, better fulfilling the Department's role as the Coordinator of the Federal Response Plan in Puerto Rico. In addition, a new administrative building, parking structure, and outpatient clinic expansion will be built. Up to $225,900,000 was authorized to be appropriated through Public Law 110–387, the Veterans' Mental Health and Other Care Improvements Act of 2008. VA has requested additional budget authority to complete the project, for a total estimated cost of $277,000,000.

The Jefferson Barracks campus of the St. Louis VAMC was authorized to receive up to $69,053,000 through Public Law 109–461, to consolidate outpatient functions and relocate VA's Employee Education system and the NCA administrative operations. This consolidation would involve the demolition of underutilized buildings that would provide about 30 acres of land for cemetery expansion. VA has requested that this project be authorized at the total estimated cost of $346,300,000 for completion.

Committee Bill. Section 602(a) of the Committee bill would amend section 803(3) of Public Law 109–461 to authorize an amount not to exceed $90,600,000 and would authorize a change of

purpose, to include a parking garage in the major medical facility construction project at Fayetteville, Arkansas.

Section 602(b) would amend section 802(11) of Public Law 109–461, as amended by section 702(b)(4) of Public Law 110–387, the Veterans' Mental Health and Other Care Improvements Act of 2008, to authorize a change of purpose, to include a Simulation, Learning, Education, and Research Network Center in the major medical facility construction project in Orlando, Florida.

Section 602(c) would, in a freestanding provision, increase the authorized amount for the major medical facility construction project at Palo Alto, California, to $716,600,000.

Section 602(d) would amend section 701(3) of Public Law 110–387, to increase the authorized amount for the major medical facility construction project in San Juan, Puerto Rico, to $277,000,000.

Section 602(e) would amend section 803(5) of Public Law 109–461 to increase the authorized amount for the major medical facility improvements and cemetery construction project in St. Louis, Missouri, to $346,300,000.

Sec. 603. Authorization of fiscal year 2012 major medical facility leases.

Section 603 of the Committee bill would authorize eight leases for FY 2012: a CBOC in Columbus, Georgia; an outpatient clinic in Fort Wayne, Indiana; an outpatient clinic in Mobile, Alabama; an outpatient clinic in Rochester, New York; a CBOC in Salem, Oregon; an outpatient clinic in San Jose, California; an outpatient clinic in South Bend, Indiana; and a CBOC in Springfield, Missouri.

Background. Section 8104 of title 38, U.S.C., requires authorization of any major medical facility construction project or lease. The Department has requested authorization for eight pending leases in order to improve health care.

The Columbus, Georgia, replacement CBOC lease would consolidate two clinics whose leases have expired. This consolidation will allow patient and staff efficiencies as well as improve the patient continuum of care.

The Department has indicated that the Ft. Wayne VAMC suffers from infrastructure deficiencies, space shortages, and patient privacy deficiencies. The Fort Wayne, Indiana, outpatient clinic lease would improve the quality of care delivered to veterans and allow the campus to decompress by housing mental health services, including substance abuse and PTSD care, in a new facility.

The existing outpatient clinic in Mobile, Alabama, is housed in two floors of a functionally obsolete building in a neighborhood with rising crime rates. The clinic occupies 35,345 net usable square feet, but is overcrowded and cannot implement new programs due to a lack of space. The space cannot be reconfigured due to columns and load bearing walls. A more appropriately sized facility would allow VA to incorporate the services provided at the existing clinic, in addition to new services such as home-based primary care and the patient aligned care team model.

The existing Rochester, New York, CBOC was determined to have a space and parking shortage, despite leasing a total of 41,190 net usable square feet and 184 parking spaces. This deficiency limits the specialty services that can be provided at the clinic. A new

space would allow VA to serve area veterans through primary care, women's health, an OEF/OIF clinic, mental health services, homeless outreach services, home-based primary care, specialty and ancillary services, research, residency programs, and space for Veterans Benefits Administration and VSO presence.

The 10,000 net usable square foot Salem, Oregon, CBOC is too small to support projected workload growth. The size limits the services the clinic can offer to just primary and specialty care, mental health, and other ancillary services. A new lease would improve the delivery of health care in the South Cascades market by allowing the CBOC to also offer eye care, rehabilitation, audiology, and speech pathology.

The existing lease on the San Jose, California, CBOC is set to expire in 2016, with no additional option years and no opportunity for renewal. The CBOC treats over 10,000 veterans annually. Maintaining access to health care is critical for these veterans. The new Outpatient Clinic lease will allow VA to provide a number of services, including primary care, mental health, audiology, podiatry, optometry, radiology, laboratory, pharmacy, and telehealth.

VA provides limited outpatient services through a CBOC in South Bend, Indiana. The remaining need is met by contracting for care and housing VA mental health providers at a contract facility. For needs that cannot be met locally, veterans must travel approximately two hours to the Fort Wayne VAMC. A new outpatient clinic lease will increase the continuity of care in South Bend, decrease outsourcing costs, allow VA to expand the type of services it offers, and reduce the travel time for veterans in need of health care.

The Gene Taylor Outpatient Clinic in Mt. Vernon, Missouri, currently leases space from the State of Missouri at the Missouri Rehabilitation Center. The State has elected to close the center and has offered to extend the lease for an additional surcharge of over $1,000,000 per year. The space is undersized and ill-equipped to handle demand in the area, necessitating that VA contract with community providers for laboratory and radiology services. Springfield, Missouri, is an area that has a high veteran population. Relocating and expanding the CBOC from Mt. Vernon to Springfield will improve veteran access, increase clinical capacity, and improve efficiency.

Committee Bill. Section 603(1) of the Committee bill would authorize the lease of a CBOC in Columbus, Georgia. The replacement clinic will support the parent facility at the Central Alabama Veterans Health Care System through the acquisition of approximately 55,000 net usable square feet of clinical space. The Committee bill would fully authorize the lease in the amount of $5,335,000.

Section 603(2) of the Committee bill would authorize the lease of an Outpatient Clinic in Fort Wayne, Indiana. The replacement clinic will support the parent facility of the VA Northern Indiana Health Care System through the acquisition of approximately 27,000 net usable square feet of clinical space. The Committee bill would fully authorize the lease in the amount of $2,845,000.

Section 603(3) of the Committee bill would authorize the lease of an Outpatient Clinic in Mobile, Alabama. The replacement clinic will support the parent facility of the VA Gulf Coast Veterans Health Care System in Biloxi, Mississippi, through the acquisition

of approximately 65,125 net usable square feet of clinical space. The Committee Bill would fully authorize the lease in the amount of $6,565,000.

Section 603(4) of the Committee bill would authorize the lease of an Outpatient Clinic in Rochester, New York. The replacement clinic will support the parent facility of the Canandaigua VAMC in Canandaigua, New York, through the acquisition of approximately 84,000 net usable square feet of clinical space and 672 parking spaces. The Committee bill would fully authorize the lease in the amount of $9,232,000.

Section 603(5) of the Committee bill would authorize the lease of a CBOC in Salem, Oregon. The replacement clinic will support the parent facility of the Portland VAMC in Portland, Oregon, through the acquisition of approximately 26,000 net usable square feet of clinical space. The Committee bill would fully authorize the lease in the amount of $2,549,000.

Section 603(6) of the Committee bill would authorize the lease of an Outpatient Clinic in San Jose, California, to replace the existing CBOC. The clinic will support the parent facility of the VA Palo Alto Health Care System in Palo Alto, California, through the acquisition of approximately 72,000 net usable square feet of clinical space and at least 576 parking spaces. The Committee bill would fully authorize the lease in the amount of $9,546,000.

Section 603(7) of the Committee bill would authorize the lease of an Outpatient Clinic in South Bend, Indiana. The replacement clinic will support the parent facility of the VA Northern Indiana Health Care System in Fort Wayne, Indiana, through the acquisition of approximately 39,000 net usable square feet of clinical space. The Committee bill would fully authorize the lease in the amount of $6,731,000.

Section 603(8) of the Committee bill would authorize the lease of a CBOC in Springfield, Missouri. The new clinic will support the parent facility of the Veterans Health Care System of the Ozarks in Fayetteville, Arkansas, through the acquisition of approximately 68,000 net usable square feet of clinical space. The Committee bill would fully authorize the lease in the amount of $6,489,000.

Sec. 604. Authorization of appropriations.

Section 604 of the Committee bill would authorize appropriations for construction and leases.

Background. Section 8104(a)(2) of title 38, U.S.C., prohibits the appropriation of funds for major medical facility construction projects or leases unless funds have been specifically authorized by law.

Committee Bill. Section 604 of the Committee bill would, in a freestanding provision, authorize an appropriation for FY 2012, or the year in which funds are appropriated, of $937,370,000 from the Construction, Major Projects, account for projects authorized in sections 601 and 602 of the Committee bill. It would also authorize an appropriation for FY 2012, or the year in which funds are appropriated, of $49,292,000 from the Medical Facilities account for the leases authorized in section 603 of the Committee bill.

Sec. 605. Limitation on authority of VA to use bid savings on major medical facility projects to expand purpose of major medical facility projects.

Section 605 of the Committee bill, which is derived from S. 928, would limit the authority of VA to use bid savings to expand the purpose of previously authorized major medical facility projects.

Background. Due to a favorable bid environment, VA has realized savings on several major construction projects. Under current law, section 8104(d) of title 38, U.S.C., VA may only use those savings on previously authorized projects; however, VA may currently use bid savings to expand upon the original purpose of a previously authorized project. Through its Strategic Capital Investment Planning process, VA has identified and prioritized up to $65 billion in anticipated construction needs over the next 10 years.

Committee Bill. Section 605 of the Committee bill would limit VA's ability to use bid savings on major medical facilities to expand the purpose of a project. VA would be required to submit to the Committees on Veterans' Affairs and the Committees on Appropriations of the Senate and the House of Representatives notice of the source of the bid savings; the major medical facility project with respect to which VA intends to expand the purpose; a description of such expansion; and the amounts VA intends to obligate for such expansion.

VA would not be authorized to expand the purpose of a project without Congressional authorization enacted in law. It is the Committee's intent that construction projects previously authorized, but not fully funded, be prioritized accordingly.

Sec. 606. Designation of George H. O'Brien Jr., Department of Veterans Affairs Medical Center.

Section 606 of the Committee bill, which is derived from S. 269, would designate the VAMC located in Big Spring, Texas, as the "George H. O'Brien, Jr., Department of Veterans Affairs Medical Center."

Background. George H. O'Brien, Jr., served as a seaman in the United States Merchant Marines from December 1944 until May 1946. In July 1946, while attending college at Texas Technical College, now known as Texas Tech University, he enlisted in the United States Marine Corps Reserve. After graduating from college in 1950, he was ordered to active duty and served in the Korean War until September 1952. He was awarded the Medal of Honor for his heroic actions during the Battle of the Hook on October 27, 1952, as detailed in the citation accompanying his award. He also received the Purple Heart Medal with gold star in lieu of a second award, the Korean Service Medal with two bronze stars, and the United Nations Service Medal, among other military honors. After his active duty service, O'Brien began a career as a petroleum geologist in Texas, while serving on the Marine Corps Scholarship Foundation as well as in the Medal of Honor Society. O'Brien was also an active volunteer at the VAMC in Big Spring, Texas.

The Committee's Rules of Procedure (hereinafter, "Committee Rules") put forward the requirements for the naming of Department facilities. According to those rules, a facility may be named for an individual only if that individual is deceased, and was a veteran who was instrumental to the construction or operation of the

facility, received the Medal of Honor, or otherwise performed extraordinarily distinguished military service; was a member of Congress who was directly associated with such facility; an Administrator of Veterans Affairs, Secretary of Veterans Affairs, Secretary of Defense or of a branch of service, or a military or Federal civilian official of comparable rank; or the Chairman and Ranking Member agree the individual performed outstanding service for veterans. Further, each member of Congress representing the State in which the facility is located and the State chapter of each Congressionally-chartered VSO that has a national membership of at least 500,000, must indicate in writing their support for the naming proposal.

Committee Bill. Section 606 of the Committee bill would, in a freestanding provision, name the VAMC in Big Spring, Texas, the "George H. O'Brien, Jr., Department of Veterans Affairs Medical Center."

Because all members of the Texas Congressional delegation have expressed their support for naming this facility in writing, and the Texas chapters of all VSOs with national memberships of at least 500,000 individuals have endorsed this facility being named in honor of George H. O'Brien, Jr., this provision satisfies the Committee Rules regarding the naming of VA facilities.

Sec. 607. Designation of Major William Edward Adams Department of Veterans Affairs Clinic.

Section 607 of the Committee bill, which is derived from S. 327, would designate the VA telehealth clinic in Craig, Colorado, as the "Major William Edward Adams Department of Veterans Affairs Clinic."

Background. Major Adams distinguished himself while serving as a U.S. Army helicopter pilot in Vietnam on May 25, 1971. Major Adams volunteered to fly a lightly armed helicopter in an attempt to evacuate three seriously wounded American soldiers from a small base that had come under attack. He made this decision with full knowledge that numerous anti-aircraft weapons were positioned around the base and that clear weather would make him visible to enemy gunners. As Major Adams approached the base, his aircraft came under heavy machine gun and rocket fire, but he continued his approach, simultaneously directing the attacks of supporting gunships while maintaining control of his own aircraft. He picked up the wounded soldiers, but his aircraft was then struck by enemy anti-aircraft fire and crashed, killing all aboard. In recognition of his heroism and sacrifice, Major Adams was posthumously awarded the Medal of Honor on August 8, 1974.

The Committee Rules described in section 606 are also applicable to this section.

Committee Bill. Section 607 of the Committee bill would name the VA telehealth clinic in Craig, Colorado, after Major William Edward Adams.

Because all members of the Colorado Congressional delegation have expressed their support for naming this facility, in writing, and the Colorado chapters of all VSOs with national memberships of at least 500,000 individuals have endorsed this facility being named in honor of Major Adams, this provision satisfies the Committee Rules regarding the naming of VA facilities.

TITLE VII—OTHER ADMINISTRATIVE AND BENEFIT MATTERS

Sec. 701. Assistance to veterans affected by natural disasters.

Section 701 of the Committee bill, which is derived from S. 1123, would provide certain types of assistance to eligible veterans affected by a natural or other disaster.

Background. In the wake of Hurricane Katrina and other more recent natural disasters, Congress has renewed its focus on Federal disaster response activities and resources for individuals affected by such disasters. While laws such as Public Law 93–288, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, provide Federal assistance to individuals and families affected by natural disasters, current law is not specifically tailored to the needs of veterans, particularly veterans with service-connected disabilities affected by such disasters. This means that under current law targeted assistance is unavailable to those veterans who are particularly vulnerable and most in need of assistance in the event of a natural disaster.

For example, VA adaptive housing assistance grants are available to eligible individuals who have certain service-connected disabilities to construct an adapted home or to modify an existing home to accommodate their disabilities. However, limitations, such as caps on the total amount of assistance available under SAH or SHA grants may prevent a veteran from receiving additional assistance from VA to repair an adapted home damaged by a natural disaster.

Similarly, under current law, section 3903 of title 38, U.S.C., if a veteran who has received a grant for the purchase of an automobile has that vehicle destroyed by a natural or other disaster, current statutory limitations would prevent VA from providing another grant to repair or replace the damaged vehicle.

Committee Bill. Section 701 of the Committee bill would amend chapter 21 of title 38, U.S.C., by adding a new section which would provide assistance to a veteran whose home is destroyed or substantially damaged in a natural or other disaster and was previously adapted with assistance through the SAH or SHA grant program. Such assistance would not be subject to the limitations on assistance under section 2102. However, under this section, a grant award would not exceed the lesser of the reasonable cost of repairing or replacing the damaged or destroyed home in excess of the available insurance coverage on such home or the maximum grant amount to which the veteran would have been entitled under the SAH or SHA grant programs had the veteran not obtained the prior grant.

Section 701 would amend section 3108 of title 38, U.S.C., by authorizing VA to extend the payment of a subsistence allowance to qualifying veterans participating in a rehabilitation program under chapter 31 of title 38. The extension would be authorized if the veteran has been displaced as a result of a natural or other disaster while being paid a subsistence allowance. If such circumstances are met, VA would be permitted to extend the payment of a subsistence allowance for up to an additional two months while the veteran is satisfactorily following a program of employment services.

Section 701 would also amend section 3120 of title 38, U.S.C., by waiving the limitation on the number of veterans eligible to receive

programs of independent living services and assistance in any case in which VA determines that an eligible veteran has been displaced as the result of, or has otherwise been adversely affected in the areas covered by, a storm or other disaster.

Section 701 would amend section 3703 of title 38, U.S.C., to allow VA to guarantee a loan regardless of whether such loan is subordinate to a superior lien created by a public entity that has provided, or will provide, assistance in response to a major disaster.

Additionally, section 701 would amend section 3903, U.S.C., of title 38 by authorizing VA to provide or assist in providing an eligible person receiving assistance through the Automobile Assistance Program with a second automobile. This assistance would be permitted only if VA receives satisfactory evidence that the automobile, previously purchased with assistance through this program was destroyed as a result of a natural or other disaster, the eligible person bore no fault, and the person would not receive compensation for the loss from a property insurer.

Finally, section 701 would require VA to submit an annual report to Congress detailing the assistance provided or action taken by VA during the last fiscal year pursuant to the authority of this section. Required report provisions would include: a description for each natural disaster for which assistance was provided, the number of cases or individuals in which or to whom VA provided assistance, and for each such case or individual, a description of the assistance provided.

The Committee believes these provisions would provide VA with the targeted authority necessary to assist veterans, many who are particularly vulnerable and most in need of assistance, in the wake of a natural or other disaster.

Sec. 702. Aggregate amount of educational assistance available to individuals who receive both survivors' and dependents educational assistance and other veterans and related educational assistance.

Section 702 of the Committee bill, which is derived from S. 536, would amend section 3695 of title 38 to modify the maximum number of months of educational assistance available to certain individuals.

Background. Under chapter 35 of title 38, U.S.C., certain survivors and dependents of individuals who die or are disabled while on active duty are eligible for educational assistance benefits. Section 3511(a)(1) provides that each eligible person is entitled to the equivalent of 45 months of full-time benefits.

P.L. 110–252, the Post-9/11 Veterans Educational Assistance Act of 2008, codified at chapter 33 of title 38, established a new program of educational assistance for individuals who served on active duty after September 11, 2001. This Act established a program of educational assistance in which individuals may earn up to a maximum of 36 months of full-time benefits.

Further, under current law, section 3695 of title 38, an individual who is eligible for assistance under two or more specific educational programs may not receive in excess of the equivalent of 48 months of full-time benefits. This means that an eligible survivor or dependent who is entitled to receive education benefits under the chapter 35 program and who uses all 45 months of those bene-

fits to obtain a college education, and who subsequently decides to enter the military, would only be able to earn the equivalent of three months of benefits under Public Law 110–252.

Committee Bill. Section 702 of the Committee bill would amend section 3695 of title 38, U.S.C., to provide that an individual entitled to benefits under chapter 35 will not be subject to the 48-month limitation. However, the maximum aggregate period of benefits an individual may receive under chapter 35 and certain other educational assistance programs listed at section 3695 of title 38 would be capped at 81 months.

Section 702 would also revive a period of entitlement to education benefits in situations where an individual's entitlement to certain education benefits was reduced by the 48-month limitation. The maximum period of assistance for individuals with revived benefits would also be capped at 81 months.

The Committee believes this change would allow individuals who use their survivors' or dependents' educational assistance benefits to also establish in their own right entitlement to the full range of benefits under Public Law 110–252.

Sec. 703. Department of Veterans Affairs enforcement penalties for misrepresentation of a business concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans.

Section 703, which is derived from S. 1184 as introduced, would change the standard for enforcement of penalties for misrepresentation by businesses of their status as a small business concern owned and controlled by a veteran or service-disabled veteran and the period of time for any consequent debarment.

Background. Misrepresentation by businesses of their status as a veteran-owned small business (hereinafter, "VOSB") or a service-disabled veteran-owned small business (hereinafter, "SDVOSB") remains a serious and ongoing concern. VA has taken steps to ensure increased contracting opportunities for VOSBs and SDVOSBs are utilized by legitimate business concerns. VA has added to its acquisition regulations the misrepresentation of VOSB/SDVOSB status as a specific cause for debarment for a period of up to 5 years. Also, VA has instituted a separate and distinct Debarment Committee to review, examine, and refer those who misrepresent themselves to VA's debarring official.

Committee Bill. Section 703 would amend section 8127 of title 38 by changing the standard for enforcement of penalties for misrepresentation by businesses of their status as a small business concern owned and controlled by a veteran or service-disabled veteran. Under this amendment, only those businesses determined by VA to have deliberately misrepresented their status would be liable for such misrepresentation. Section 703 would also require that those businesses liable for misrepresentation be debarred from contracting with VA for a period of not less than 5 years. The debarment of a business concern would include the debarment of all principals in the business concern for a period of not less than 5 years. Finally, the section would require that commencement of a debarment action occur not later than 30 days after a determination by VA of deliberate misrepresentation and that the action be completed no later than 90 days after such determination.

While VA's current measures reflect the Department's commitment to an equitable debarment process, consistent with an appropriate level of due process, the Committee is aware that some misrepresentations of VSOB/SDVOSB status requirements may be the result of an innocent mistake. Given this, it is important that the standard for enforcement of penalties for misrepresentation account for such instances where the misrepresentation is inadvertent and not deliberate.

To ensure equity and due process, it is also important that a minimum period of time for debarment, during which a business concern and its principals are prohibited from contracting with VA, be adopted and uniformly applied.

Sec. 704. Authority for certain persons to sign claims filed with Secretary of Veterans Affairs on behalf of claimants.

Section 704 of the Committee bill, which is derived from S. 1148, would authorize certain individuals to sign claims filed with VA on behalf of claimants who are under age 18, are mentally incompetent, or are physically unable to sign a form.

Background. Some claimants for VA benefits are so disabled as to be incapable of understanding the information on a benefits application form. Under current law, section 5101 of title 38, U.S.C., VA lacks specific authority to authorize a court-appointed representative or caregiver to sign an application form allowing the adjudication of the claim to proceed. However, the Social Security Administration (hereinafter, "SSA") has specific authority in section 404.612 of title 20 of the Code of Federal Regulations to permit certain individuals, such as court-appointed representatives, to sign a claim form on behalf of an individual unable to understand and sign a claim form.

Committee Bill. Section 704 of the Committee bill would amend section 5101 of title 38 to modify the application process for claims filed with VA. This amendment would allow a court-appointed representative, a caregiver, an attorney-in-fact or an agent authorized to act on behalf of the claimant under a durable power of attorney to sign applications from individuals who are under 18 years of age, mentally incompetent, or physically unable to sign a form. If an individual is in the care of an institution, the manager or principal officer of the institution would be allowed to sign the form. These changes would apply with respect to claims filed on or after the date of enactment.

This change will give VA the same authority that SSA has with respect to claimants who are unable to complete applications for benefits without requiring assistance. The Committee does not intend that this provision alter VA's responsibility to evaluate and appoint a fiduciary in cases where the beneficiary is determined to be incompetent to manage his or her benefits.

Sec. 705. Improvement of process for filing jointly for social security and dependency and indemnity compensation.

Section 705 of the Committee bill, which is derived from S. 1148, would codify VA's current practice of allowing any claim for survivor benefits filed with SSA to establish the effective date for DIC benefits.

Background. Under current law, section 5105 of title 38, VA and SSA are required to develop and use joint applications for survivors who apply for both DIC and Social Security survivor benefits. Section 5105 further provides that, if such a joint application form is filed with either VA or SSA, it will be deemed an application for both DIC and Social Security benefits. However, at present, SSA applications are primarily online and VA's are paper-based.

In a recent court case, *Van Valkenburg* v. *Shinseki*, 23 Vet. App. 113 (2009), VA represented to the Court that "there has never been an individual 'jointly prescribed form' promulgated between VA and SSA," and that "in practice, a claim for survivor's benefits can be filed on any form, with either VA or SSA, when the applicant reflects an intent to seek such benefits." The Court accepted VA's representation that "any claim, sufficient to reflect an intent to apply for survivor's benefits, that is filed with SSA will suffice to establish the effective date of DIC."

Committee Bill. Section 705 of the Committee bill would amend section 5105 of title 38 to permit—but not require—the development of a joint form for SSA and VA survivor benefits. This provision of the Committee bill would also amend section 5105 so that any form indicating an intent to apply for survivor benefits would be deemed an application for both DIC and Social Security benefits. This is intended to codify VA's practice under which any indication of intent to apply for Social Security survivor benefits is also treated as an application for VA DIC benefits.

Sec. 706. Parity between part-time and full-time students under employee incentive scholarship program.

Section 706 of the Committee bill, which is derived from by-request legislation submitted by the Department, would require that any employee of the Department participating in the Employee Incentive Scholarship Program (hereinafter, "EISP") be liable for the amount paid for a program should the employee fail to maintain VA employment during the program.

Background. Section 7675 of title 38, U.S.C., limits liability for breach of the EISP agreement to part-time student participants. Currently, all other VA employee recruitment and retention incentive programs have a service obligation and liability component that affects both full-time and part-time employees.

Committee Bill. Section 706 of the Committee bill would replace section 7675(b)(1)(E) of title 38, U.S.C., with a new subparagraph that would impose on full-time student participants in the EISP the same liability as is currently imposed on part-time students for breach of the EISP agreement if they leave VA employment prior to completion of their education program.

Sec. 707. Report on pay-for-performance compensation under health care services contract.

Section 707 of the Committee bill, which is derived from S. 1089, would require VA to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the feasibility and advisability of implementing pay-for-performance mechanisms in VA health care contracts at community-based outpatient clinics.

Background. VA Directive 1663, issued in August 2006, allows VAMCs to purchase non-VA care from affiliated medical schools, groups, hospitals, and other providers, through contracts or fee-for-service care. These contracts are generally allowed if: a VA facility cannot provide a clinical service, the facility cannot recruit a needed clinician, it is not in VA's best interest to provide such service, only a portion of a clinician's time is needed, or it is cost-effective to share a service or space with another entity rather than to develop a capacity within VA.

Throughout VHA, many CBOCs deliver health care on a contract basis. CBOCs typically are associated with VAMCs and refer patients to those facilities when needed. In FY 2010, VA operated 798 CBOCs, 183 of which were operated by contract.

The Independent Budget for FY 2012 (hereinafter, "IB") supports VA health care contracts when VA facilities are not capable of providing necessary care to veterans. The IB states, however, that VA does not track such care, its related costs, outcomes, or veteran satisfaction levels.

Committee Bill. Section 707 of the Committee bill would, in a freestanding provision, require VA to submit a report on pay-for-performance compensation mechanisms, where providers are rewarded for meeting pre-established targets for delivery of health care services, in VA health care contracts at CBOCs.

Subsection (a) of section 707 of the Committee bill would require VA to submit, within 180 days after enactment of the Committee bill, a report to the Committees on Veterans' Affairs of the Senate and the House of Representatives, which would include information on VA's use of pay-for-performance mechanisms in contracts for health care services at CBOCs.

Subsection (b) of section 707 of the Committee bill would specify the required elements to be included in the report. Such requirements would include an assessment of the feasibility and advisability of using pay-for-performance compensation mechanisms in VA health care contracts with CBOCs; information on the number of CBOCs operating under pay-for-performance compensation mechanisms as of the date of enactment of the Committee bill; and the impact this mechanism has had in providing incentives to deliver high quality care and to better assure patient satisfaction.

Subsection (c) of section 707 of the Committee bill would require VA to incorporate the views and experiences of representatives of at least two private health care systems that have utilized pay-for-performance compensation mechanisms in the operation of medical clinics, to determine if such mechanisms had an effect on the delivery of quality, timely medical care in the private sector.

Sec. 708. Extension of authority to obtain information from Secretary of Treasury and Commissioner of Social Security for income verification purposes.

Section 708 of the Committee bill, which is derived from S. 1148, would extend for 2 years, until September 30, 2013, VA's authority to obtain information from the Internal Revenue Service (hereinafter, "IRS") or the SSA for income verification purposes for needs-based benefits.

Background. Under current law, certain benefit programs administered by VA, such as pensions for wartime veterans, are available

only to beneficiaries whose annual income is below a certain level. VA must have access to verifiable income information in order to ensure that those receiving benefits under its income-based programs are not earning a greater annual income than the law permits.

Section 6103(l)(7)(D)(viii) of title 26, U.S.C., authorizes the release of certain income information by the IRS or the SSA to VA for the purposes of verifying the incomes of applicants for VA needs-based benefits. Section 5317(g) of title 38, U.S.C., provides VA with temporary authority to obtain and use this information. Under current law, this authority expires on September 30, 2011.

Committee Bill. Section 708 of the Committee bill would amend subsection 5317(g) of title 38 to extend VA's authority to obtain income information from the IRS or the SSA until September 30, 2013.

Sec. 709. Extension of authority for regional office of Department of Veterans Affairs in Republic of the Philippines.

Section 709 of the Committee bill, which is derived from S. 1148, would extend until December 31, 2012, VA's authority to operate a regional office in the Republic of the Philippines.

Background. Filipino veterans who served under the command of the United States during World War II have been granted limited benefits. Section 315(b) of title 38, U.S.C., authorizes VA to maintain a regional office in the Republic of the Philippines until December 31, 2011, to administer these benefits. Congress has periodically extended this authority, most recently in Public Law 111–275, the Veterans' Benefits Act of 2010.

P.L. 111–275 also directed GAO to conduct a report on the regional office in the Republic of the Philippines. The report, which is due to the House and Senate Committees on Veterans' Affairs and Appropriations no later than October 13, 2011, is required to contain a description of the activities of the regional office and an assessment of the costs and benefits of maintaining the regional office in the Republic of the Philippines.

Committee Bill. Section 709 would authorize VA to maintain a regional office in the Republic of the Philippines until December 31, 2012.

Sec. 710. Report on establishment of a Polytrauma Rehabilitation Center or Polytrauma Network Site of the Department of Veterans Affairs in the northern Rockies or Dakotas.

Section 710 of the Committee bill, which is derived from S. 666, would require VA to submit to Congress a report on the feasibility and advisability of establishing a VA PRC or PNS in the northern Rockies or Dakotas, not later than 180 days after the enactment of the Committee bill.

Background. Polytrauma refers to the cumulative condition resulting from exposure to a single event which has caused multiple and complex injuries. Such injuries can impact the brain, limbs, spinal cord, and musculoskeletal system, and in turn, can adversely affect hearing, vision, and cognition.

An April 2008 RAND Corporation study, "Invisible Wounds: Mental Health and Cognitive Care Needs of America's Returning Veterans," estimated that 320,000 veterans reported experiencing

TBI during deployment, from mild concussions to severe wounds. Of those who reported experiencing a probable TBI, 57 percent were never evaluated by a physician. Veterans with severe polytrauma who do not live in proximity to a polytrauma care facility face difficulties in receiving necessary treatment.

The VA Polytrauma System of Care provides treatment to veterans with polytrauma through four PRCs, located in Palo Alto, Tampa, Richmond, and Minneapolis. These PRCs offer comprehensive inpatient and outpatient treatment. A fifth PRC is, as of the date of this report, being constructed at the VAMC in San Antonio, Texas. There are also 22 PNSs that provide a full range of comprehensive follow-on medical and rehabilitative services, both inpatient and outpatient.

Committee Bill. Section 710 of the Committee bill would, in a freestanding provision, require the VA to conduct a study and report to Congress, not later than 180 days after enactment of the Committee bill, on the feasibility and advisability of establishing a PRC or PNS in the northern Rockies or Dakotas. This section would specify that the Fort Harrison VAMC be one of the sites evaluated for potential placement of a PRC or a PNS.

The report would be required to include an assessment of the adequacy of existing services provided at Department facilities and the availability of the types of services that would otherwise be provided by a PRC or PNS. The report would also be required to include a comparative assessment of the effectiveness of TBI rehabilitation programs in urban versus rural settings, an assessment of whether the low cost of living in the region could reduce the financial burden on families of a veteran undergoing TBI care and thereby improve that care, and whether any stress caused by living in an urban area can impede therapies to prevent or remediate the development of secondary neurologic conditions related to TBI. The Department would be required to consult with State and local government entities in preparing this report.

Sec. 711. Modification of loan guaranty fee for certain initial loans.

Section 711 of the Committee bill would modify VA's authority to levy a loan guaranty fee for initial guaranteed housing loans.

Background. Under VA's home loan guaranty program, VA may guarantee a loan made to eligible servicemembers, veterans, reservists, and un-remarried surviving spouses for the purchase (or refinancing) of houses, condominiums, and manufactured homes.

Section 3729(b)(2) of title 38, U.S.C., sets forth a loan fee table that lists funding fees, expressed as a percentage of the loan amount, for different types of loans.

Committee Bill. Section 711 of the Committee bill would amend the fee schedule set forth in section 3729(b)(2) of title 38 by extending VA's authority to collect certain fees and by adjusting the amount of the fees. Specifically, the section would strike clauses (i) and (ii), redesignate current clause (iii) as clause (i), and insert a new clause (ii), and redesignate current clause (iv) as (iii). New clause (iii) would additionally be amended by striking "October 1, 2011" and inserting October 1, 2012.

The practical effect of these changes would be to maintain the current home loan guaranty fees, 2.15 percent for active duty and 2.4 percent for Reservists, until October 1, 2011. After that date,

and until October 1, 2012, the rates would be decreased to 1.5 percent for active duty and 1.75 percent for Reservists, rather than allowing them to decrease, according to current law, on October 1, 2011 to 1.4 percent for active duty and 1.65 percent for Reservists, which would now be scheduled to occur on October 1, 2012.

These amendments would take effect on the later of October 1, 2011, and the date of the enactment of this section.

COMMITTEE BILL COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office (hereinafter, "CBO"), estimates that, on net, the Committee bill would decrease direct spending by $7 million over the 2012–2021 period.

In addition, CBO estimates that implementing the Committee bill would have a discretionary cost of $1.3 billion over the 2012–2016 period, assuming appropriation of the specified and estimated amounts. The Committee bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The cost estimate provided by CBO, setting forth a detailed breakdown of costs, follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 30, 2011.

Hon. PATTY MURRAY,
Chairman,
Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 914, the Veterans Programs Improvement Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ann E. Futrell.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

S. 914—Veterans Programs Improvement Act of 2011

Summary: S. 914 would authorize the construction of several major medical facility projects, expand programs for homeless veterans and make other changes to health care, compensation, housing, education, and other programs offered by the Department of Veterans Affairs (VA). In total, CBO estimates that implementing the bill would have a discretionary cost of $1.3 billion over the 2012–2016 period, assuming appropriation of the specified and estimated amounts.

In addition, CBO estimates that enacting the bill would decrease direct spending by $7 million over the 2012–2021 period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting S. 914 would not affect revenues.

S. 914 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

S. 914 would impose a private-sector mandate, as defined in UMRA, on certain mortgage holders and other creditors. Based on information from industry sources, CBO expects that the cost of the mandate would fall below the annual threshold for private-sector mandates ($142 million in 2011, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 914 is summarized in Table 1. The costs of this legislation fall within budget function 700 (veterans benefits and services).

Table 1.—Estimated Budgetary Effects of S. 914, The Veterans Programs Improvement Act of 2011

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	1,304	42	-5	-6	-7	1,328
Estimated Outlays	347	344	313	215	77	1,296
CHANGES IN DIRECT SPENDING [a]						
Estimated Budget Authority	-18	0	1	2	-1	-16
Estimated Outlays	-18	0	1	2	-1	-16

[a] In addition to the changes in direct spending shown above, enacting S. 914 would have effects beyond 2016 (see Table 3). CBO estimates that over the 2012–2021 period, S. 914 would decrease net direct spending by $7million.

Basis of estimate: For this estimate, CBO assumes the legislation will be enacted near the start of fiscal year 2012, that the necessary amounts will be appropriated each year, and that outlays will follow historical patterns for similar and existing programs.

Spending subject to appropriation

CBO estimates that implementing S. 914 would have a discretionary cost of $1.3 billion over the 2012–2016 period, assuming appropriation of the specified and estimated amounts (see Table 2). Most of the bill's estimated costs stem from provisions that would authorize appropriations for medical construction projects.

Medical Facilities. Title VI would authorize funding to construct, renovate, and lease several medical facilities. CBO estimates that implementing title VI would cost about $1 billion over the 2012–2016 period, assuming appropriation of the authorized and estimated amounts.

Major Construction Projects. Section 602 would authorize the appropriation of $850 million to construct and modify medical facilities in Palo Alto, California; St. Louis, Missouri; and San Juan, Puerto Rico. CBO estimates that, if appropriated, those amounts would result in discretionary costs of $824 million over the 2012–2016 period.

Table 2.—Estimated Changes in Spending Subject to Appropriation Under S. 914

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
Medical Facilities						
Major Construction Projects						
Authorization Level	850	0	0	0	0	850
Estimated Outlays	37	229	277	204	77	824
Leases for Medical Facilities						
Estimated Authorization Level	50	22	22	22	22	138
Estimated Outlays	45	22	22	22	22	133

Table 2.—Estimated Changes in Spending Subject to Appropriation Under S. 914—Continued

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
Seismic Corrections and Renovations						
Estimated Authorization Level	68	0	0	0	0	68
Estimated Outlays	3	18	22	16	6	65
Subtotal, Medical Facilities						
Estimated Authorization Level	968	22	22	22	22	1,056
Estimated Outlays	85	269	321	242	105	1,022
Health Care						
Reimbursement for Ambulance Services						
Estimated Authorization Level	-45	-48	-51	-53	-56	-253
Estimated Outlays	-41	-47	-50	-53	-55	-246
Travel Reimbursements for Vet Centers						
Estimated Authorization Level	7	14	14	15	15	65
Estimated Outlays	6	13	14	15	15	63
Telehealth and Telemedicine Programs						
Estimated Authorization Level	2	3	4	6	8	23
Estimated Outlays	2	3	4	6	8	23
Chiropractic Care						
Estimated Authorization Level	1	1	2	2	2	8
Estimated Outlays	1	1	2	2	2	8
Centers of Excellence for Rural Health						
Estimated Authorization Level	*	1	1	1	1	4
Estimated Outlays	*	1	1	1	1	4
State Prescription Monitoring Programs						
Estimated Authorization Level	1	*	*	*	*	1
Estimated Outlays	1	*	*	*	*	1
Subtotal, Health Care						
Estimated Authorization Level	-34	-29	-30	-29	-30	-152
Estimated Outlays	-31	-29	-29	-29	-29	-147
Homeless Veterans						
Extension of Certain Authorities for Homeless Veterans						
Estimated Authorization Level	107	37	*	0	0	144
Estimated Outlays	96	43	4	0	0	143
Supportive Services for Low-Income Families						
Authorization Level	101	0	0	0	0	101
Estimated Outlays	91	9	*	*	0	100
Homeless Providers Grants and Per Diem Program						
Authorization Level	100	0	0	0	0	100
Estimated Outlays	90	9	0	0	0	99
Workforce Reintegration Program						
Authorization Level	50	0	0	0	0	50
Estimated Outlays	4	31	14	1	0	50
Homeless Veterans with Special Needs						
Authorization Level	5	5	0	0	0	10
Estimated Outlays	5	5	*	*	*	10
Case Management Services for HUD-VASH Program						
Estimated Authorization Level	1	1	1	1	1	5
Estimated Outlays	1	1	1	1	1	5
Services for Homeless Veterans						
Estimated Authorization Level	1	*	0	0	0	1
Estimated Outlays	1	*	*	*	*	1
Subtotal, Homeless Veterans						
Estimated Authorization Level	365	43	1	1	1	411
Estimated Outlays	288	98	19	2	1	408
Other Provisions						
VA Office in Philippines						
Estimated Authorization Level	5	6	2	0	0	12
Estimated Outlays	5	6	2	0	0	12
Reports and Plans						
Estimated Authorization Level	*	*	*	*	*	1

Table 2.—Estimated Changes in Spending Subject to Appropriation Under S. 914—Continued

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
Estimated Outlays	*	*	*	*	*	1
Subtotal, Other Provisions						
Estimated Authorization Level	5	6	2	0	0	13
Estimated Outlays	5	6	2	0	0	13
Total Changes to Spending Subject to Appropriation						
Estimated Authorization Level	1,304	42	-5	-6	-7	1,328
Estimated Outlays	347	344	313	215	77	1,296

Notes: VA = Department of Veterans Affairs; HUD-VASH = Housing and Urban Development-Department of Veterans Affairs Supported Housing; * = less than $500,000.

Leases for Medical Facilities. Section 603 would authorize the appropriation of $50 million for leasing eight medical facilities. Based on information from VA's 2012 budget request, CBO expects that VA would enter into 20-year lease agreements for those facilities. CBO estimates that in addition to the specified amounts authorized to be appropriated in 2012, VA would incur additional costs of $22 million a year starting in 2013. (Costs are higher in the first year than in other years because VA would pay up front for necessary improvements and upgrades.) CBO estimates that entering into those leases would cost $133 million over the 2012–2016 period, assuming appropriation of the authorized and estimated amounts.

Seismic Corrections and Renovations. Section 601 would authorize the appropriation of $87 million for seismic corrections and renovations at facilities in Los Angeles and Seattle, Washington. Based on VA's current estimated construction costs and the amounts that have already been appropriated for those projects, CBO estimates that VA would require additional funding of $68 million in 2012. CBO estimates that implementing those projects would cost a total of $65 million over the 2012–2016 period, assuming appropriation of the estimated amounts.

Health Care. Title I contains sections that would change reimbursements for certain VA health care services and related travel, as well as expand health care services. CBO estimates that implementing title I would reduce costs by a net of $147 million over the 2012–2016 period, assuming appropriation of the authorized and estimated amounts.

Reimbursement for Ambulance Services. Section 108 would allow VA to pay the provider of ambulance services the lesser of the actual charge or the amount determined by the Medicare fee schedule for ambulance services. Under current law, VA does not have a standard fee for ambulance services; rather they reimburse the transportation costs for certain veterans based upon the "actual necessary expense" as submitted by the provider. CBO expects that paying Medicare rates for ambulance services would lower such costs by roughly 20 percent (comparable to the difference between Medicare Part B physician payment rates and those of the private sector). On that basis, CBO estimates that using the Medicare fee schedule would reduce spending for ambulance services by $246 million over the 2012–2016 period, assuming appropriations for such benefits continue.

Travel Reimbursements for Vet Centers. VA is required to reimburse the travel expenses of certain veterans seeking vocational rehabilitation, counseling, or treatment at a VA facility or other approved locations at a general rate of 41.5 cents per mile. According to the Veterans Health Administration, there are nearly 10 million claims made each year for travel reimbursement.

Section 103 would require Vet Centers to be treated as VA facilities for the purpose of reimbursement for travel. Based on information from VA, CBO estimates that under the bill VA would approve between 280,000 and 300,000 new travel claims each year from Vet Center patients over the 2012–2016 period. Based on information from VA regarding recent travel claims, CBO estimates that VA would pay an average of $47 per claim in 2012, rising to $50 per claim in 2016. Assuming appropriation of the necessary amounts, a one-year phase-in period, and annual adjustments for inflation, CBO estimates that implementing this provision would cost $63 million over the 2012–2016 period.

Telehealth and Telemedicine Programs. Section 101 would prohibit the VA from charging copayments to veterans for any telehealth or telemedicine consultations. VA currently charges copayments of $15 for primary care visits and $50 for specialty care visits. Based on information from the department, CBO estimates that in 2012 VA will have a workload of over 67,000 such consultations for which it will receive $2 million in copayments. In recent years, those programs have experienced a 25 percent annual rate of growth in workload. Some of that growth represents new workload in terms of medical visits that would not have been made for reasons of distance or other difficulty in accessing VA care. The remainder of the growth is accounted for by veterans using telehealth and telemedicine in place of physical visits to a VA facility. CBO expects that eliminating the copayments for virtual visits would accelerate the shift from regular visits, which would continue to incur copayments.

CBO estimates that implementing this provision would decrease collections by $2 million in 2012, growing to $8 million by 2016.

Such collections are offsets to discretionary appropriations. As part of the annual appropriations process, the Congress gives VA authority to spend those collections. Therefore, maintaining the same level of health care services for veterans would necessitate additional funding each year to make up for the loss of copayments under this provision. Thus, CBO estimates that implementing this provision would cost $23 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

Chiropractic Care. Section 107 would require VA to provide comprehensive chiropractic services at two or more locations in each of the 21 Veterans Integrated Services Networks (VISNs), which are VA's regional networks of medical facilities, and in other locations as the Secretary determines appropriate. Nine VISNs currently meet those requirements and the remaining 12 VISNs each provide care at one location. VA reports that the average salary for a chiropractor is roughly $115,000. After adjusting for inflation, CBO estimates that providing chiropractic care at one additional location in each of those 12 VISNs would cost $8 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

Centers of Excellence for Rural Health. Section 106 would require VA to establish centers of excellence for research, education, and clinical activities related to providing health care in rural areas. CBO assumes VA would use existing facilities, but would increase personnel. CBO estimates that establishing the centers of excellence would cost $4 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

State Prescription Monitoring Programs. Section 110 would allow VA to share information on prescription drug usage with state programs that seek to minimize misuse of prescription drugs. CBO estimates minimal costs to establish and maintain the necessary IT capabilities. CBO estimates that implementing this provision would cost $1 million over the 2012–2016 period, assuming the availability of appropriated funds.

Homeless Veterans. Title II includes several provisions that would extend and expand programs providing assistance to homeless veterans. CBO estimates that implementing title VI would cost $408 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

Extension of Certain Authorities for Homeless Veterans. Section 205 would extend, for various periods, the expiring authorities for several programs that provide services to homeless veterans. CBO estimates that extending such programs would cost $143 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

Supportive Services for Low-Income Families. Section 207 would extend through 2012 a VA program that provides grants to entities serving certain low-income families and authorize the appropriation of $101 million for that program in 2012.

The program, which expires in 2011, provides grants to entities that help the families of low-income veterans that are homeless, making the transition to permanent housing, or already in permanent housing. Those entities provide a variety of services including outreach, case management, and assistance accessing VA or other public benefits. CBO estimates that implementing that provision would cost $100 million over the 2012–2016 period, assuming appropriation of the specified amount.

Homeless Providers Grants and Per Diem (GPD) Program. Section 201 would increase the annual amounts authorized for the VA's Homeless Providers Grant and Per Diem Program (GPD) from $150 million to $250 million in 2012.[1] The GPD program provides capital grants for constructing, renovating, or acquiring buildings and per diem payments to fund operating costs. After factoring in historical spending patterns for this program, CBO estimates that implementing that provision would cost $99 million over the 2012–2016 period, assuming appropriation of the specified amount.

Workforce Reintegration Program. Section 206 would authorize the appropriation of $50 million a year for 2012 for the homeless veteran reintegration program at VA. CBO estimates that implementing that provision would cost $50 million over the 2012–2016 period, assuming appropriation of the specified amount.

[1] Section 201 also would authorize the appropriation of an additional $68 million for fiscal year 2011. However, since CBO assumes this bill will be enacted near the start of 2012, the estimate does not include that funding.

Homeless Veterans with Special Needs. Section 208 would authorize the appropriation of $5 million a year for 2012 and 2013 to provide support to health care facilities and providers that offer services to homeless veterans who are: women, elderly, terminally ill, or chronically mentally ill. CBO estimates that implementing that provision would cost $10 million over the 2012–2016 period, assuming appropriation of the specified amounts.

Case Management Services for Housing and Urban Development-Department of Veterans Affairs Supported Housing (HUD-VASH) Program. Section 209 would authorize the VA to enter into contracts or agreements with other entities in the provision of case management services to certain homeless veterans in the HUD-VASH program. This section also would provide training grants to collaborating entities. The HUD-VASH program is a collaboration between HUD and VA to provide permanent housing to homeless veterans and their families. Veterans enrolled in the HUD-VASH program receive case management and supportive services through VA. Based on information from VA, CBO expects that, under this provision, contract case managers would be added as necessary. CBO estimates that VA would add an additional 10 case managers on a part-time basis. CBO estimates that implementing this provision would cost $5 million over the 2012–2016 period, assuming the availability of appropriated funds.

Services for Homeless Veterans. Section 203 would expand the provision of certain services provided to homeless veterans suffering from mental illness to include all homeless veterans. The underlying authority to provide those services is extended elsewhere in the bill through December 31, 2012. CBO expects that the primary effect of this provision would be to ensure that all homeless veterans are eligible for temporary housing. Based upon information from VA, CBO estimates that under this provision, placements into temporary housing would increase by nearly 10 percent, or about 1,500. On average, per diem costs are roughly $55 per day and the average length of stay is about 50 days. On that basis, CBO estimates that implementing section 203 would cost $1 million over the 2012–2013 period, assuming the availability of appropriated funds.

Other Provisions. Several other provisions would increase discretionary costs. Implementing those requirements would, CBO estimates, have a total cost of $13 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

VA Office in Philippines. Section 709 would extend the authority to maintain a VA Office in the Philippines from December 31, 2011, to December 31, 2013. Based on information from VA, the cost of maintaining that office is about $6 million a year; therefore, CBO estimates that implementing section 709 would cost $12 million over the 2012–2014 period, assuming appropriation of the necessary amounts.

Reports and Plans. S. 914 would require several reports and plans to be completed by VA. CBO estimates that those provisions, collectively, would cost about $1 million over the 2012–2016 period, assuming availability of appropriated funds.

Direct spending

S. 914 contains provisions that would both increase and decrease direct spending. CBO estimates that, on net, enacting S. 914 would decrease direct spending by $7 million over the 2012–2021 period (see Table 3).

Extension of Income Verification. Section 708 would extend VA's authority to verify income reported by recipients of VA pension benefits by allowing it to acquire information on income from the Internal Revenue Service (IRS). The authorization allowing the IRS to provide income information to VA was made permanent by Public Law 110–245, but the authorization allowing VA to acquire the information is scheduled to expire on September 30, 2011. Section 708 would extend that authority through September 30, 2013.

Over the last several years, VA saved, on average, $4 million each year in new pension benefit payments by using the IRS data to verify veterans' incomes. CBO estimates that the incremental savings from utilizing the IRS data for income verification would be about $4 million in new savings each year. Those savings would compound, rising to about $8 million in 2013. After adjusting for cost-of-living increases and mortality rates, savings would decline starting in 2014 after the authority to use IRS data expires. CBO estimates that section 708 would reduce direct spending by $56 million over the 2012–2021 period.

Fees for Guaranteed Loans. Section 711 would increase the fees that VA charges for guaranteeing certain mortgages made to veterans. VA guarantees lenders a payment of up to 25 percent of the outstanding loan balance (subject to some limitations on the original loan amount) in the event that the veteran defaults. Such guarantees enable veterans to get better loan terms, for example, lower interest rates or smaller down payments. VA charges fees to some veterans for its guarantee to offset the costs of subsequent defaults.

Under current law, veterans who get a mortgage with a VA guarantee and who don't make a down payment are required to pay an up-front fee equal to 2.15 percent of the principal for loans taken in 2011. In 2012 and thereafter the fee for such loans declines to 1.40 percent. Veterans of the reserve components pay an additional fee of 0.25 percent for loan guarantees. Fees for all veterans are higher if they have previously used the loan-guarantee benefit.

Section 711 would increase the guarantee fee for loans with no down payment made in 2012 to 1.50 percent of the principal. Reserve veterans would continue to pay the additional 0.25 percent premium. In 2013 and thereafter, the fee would decline to 1.40 percent, consistent with current law. Raising the fee in 2012 would increase collections by VA, lowering the subsidy cost of the loan guarantees and reducing direct spending by $32 million in 2012, CBO estimates.

Table 3.—Estimated Changes in Direct Spending Under S. 914

	Outlays by fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2016	2012–2021
CHANGES IN DIRECT SPENDING												
Extension of Income Verification	-4	-8	-7	-6	-6	-6	-5	-5	-5	-4	-31	-56
Fees for Guaranteed Loans	-32	0	0	0	0	0	0	0	0	0	-32	-32

Table 3.—Estimated Changes in Direct Spending Under S. 914—Continued

	Outlays by fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2016	2012–2021
Survivors and Dependents Educational Benefits	1	2	2	2	2	2	3	3	3	4	9	24
Retroactive Effective Date for Disability Compensation Claims	15	0	0	0	0	0	0	0	0	0	15	15
Assistance for Veterans Affected by Natural Disasters	1	1	1	1	1	1	1	1	1	1	5	10
Specially Adapted Housing Assistance	0	3	3	3	*	*	*	*	*	*	9	10
Occupancy of Housing by Dependent Children	*	1	1	1	1	1	1	1	1	1	4	9
Waiver of Loan Fee	*	*	*	*	*	*	1	1	1	1	1	5
Temporary Residence Adaptation Grants	1	1	1	1	1	1	1	1	1	1	4	7
Increased Pension for Married Veterans Requiring Aid and Attendance	*	*	*	*	*	*	*	*	*	*	*	1
Total Changes	-18	0	1	2	-1	-1	2	2	2	4	-16	-7

Notes: Components may not sum to totals because of rounding; * = less than $500,000.

Survivors and Dependents Educational Benefits. Spouses and children of certain deceased or totally disabled veterans are eligible for up to 45 months of veterans' educational benefits. If the survivors and dependents are eligible for additional educational benefits because of their own military service or through the transfer of benefits, they are limited to a total of 48 months of benefits. Beginning October 1, 2011, section 702 would allow such survivors and dependents to use a maximum of 81 months of benefits. Based on information from VA and the Department of Defense, CBO estimates that approximately 130 survivors and dependents each year would use the additional benefits. If enacted, we estimate that section 702 would increase direct spending by $24 million over the 2012–2021 period.

Retroactive Effective Date for Disability Compensation Claims. Section 402 would allow VA to pay up to a year's worth of retroactive payments to veterans who submit fully developed claims. This provision would expire on September 30, 2012.

Based on information from VA, less than 1 percent of all disability claims are adjudicated as fully developed claims. Of the roughly 930,000 new claims that were adjudicated by VA in 2010, approximately 5,200 were processed and adjudicated as fully developed. Of those 5,200 claims, 83 percent were disability compensation claims that resulted in 1,300 accessions (24 percent) and 3,000 (59 percent) reopened claims. CBO expects that a similar trend would continue for 2012.

Under section 402, a veteran that submitted a fully developed claim would be eligible for one year's worth of retroactive payments, should his or her claim be approved. Some veterans currently receive a retroactive benefit because they submitted an informal claim in advance of the fully developed claim. Those veterans receive payments for the period between the submission of the first and second applications. CBO estimates that about 25 percent of veterans submit informal claims ahead of their fully developed claim. Therefore, CBO estimates that about 970 new veterans

and about 2,400 reopened cases would be eligible for a year's worth of retroactive payments.

Using information from VA, CBO estimates that in 2012, the average new veteran will enter the rolls with a 40 percent disability rating resulting in an annual payment of about $7,680. Veterans who reopened their cases and received an increase will be—on average—eligible for a 10 percent increase in their disability rating, resulting in a one-year retroactive payment of roughly $3,240. Therefore, CBO estimates that enacting section 402 would increase direct spending in 2012 by about $15 million.

Assistance for Veterans Affected by Natural Disasters. Section 701 would provide additional amounts of assistance to certain veterans with service-connected disabilities who are affected by natural disasters. That assistance includes:

- Additional grants for certain veterans whose homes and automobiles that had been acquired or adapted using a grant from VA were destroyed or damaged in a natural or other disaster;
- Additional payments of a subsistence allowance for certain veterans who were displaced because of a natural or other disaster; and
- Additional services to achieve independence in daily living for those who were displaced because of a natural or other disaster.

Based on information from VA, the Federal Emergency Management Agency, the Department of Transportation, the Insurance Information Institute, and the Insurance Services Office, CBO estimates that an average of about 600 veterans each year would qualify for the additional assistance offered under section 701. If enacted, that assistance is estimated to increase direct spending by about $10 million over the 2012–2021 period, CBO estimates.[2]

Specially Adapted Housing Assistance. Under current law, veterans who are entitled to compensation for permanent and total service-connected disability due to blindness in both eyes with visual acuity of at most 5/200 are also eligible to receive assistance to purchase, construct, or modify a home to meet their specific needs. Section 306 would reduce the required standard of visual acuity from 5/200 to 20/200. Based on information from VA, CBO estimates that under this provision about 1,200 previously ineligible veterans and 20 additional veterans each year would qualify for housing adaptation assistance and that, on average, each of those veterans would receive about $7,600 to meet their needs. If enacted, reducing the standard of visual acuity to 20/200 would increase direct spending by $10 million over the 2012–2021 period, CBO estimates.

Occupancy of Housing by Dependent Children. To qualify for a home mortgage with a VA loan guarantee, a veteran must occupy the home as his or her primary dwelling. Section 303 would allow that requirement to be met by a dependent child of a veteran if the veteran's active-duty status prevents him from residing in the house at the time the loan is issued. Based on information from VA, CBO expects that relaxing the occupancy requirement will result in a small increase in the number of loans that VA guarantees.

[2] As the timing and magnitude of natural or other disasters cannot be forecast with certainty, the actual costs of providing assistance to veterans affected by natural or other disasters may differ significantly from the amounts contained in this estimate.

CBO estimates that enacting this provision would increase direct spending by $9 million over the 2012–2021 period.

Waiver of Loan Fee. Veterans who receive compensation for service-related disabilities are exempt from the fee that most veterans pay to VA for guaranteeing a home mortgage loan. Veterans who have submitted a claim for disability compensation, but whose claims have not been adjudicated by VA must pay the fee if the loan closes before VA resolves the claim. Under section 304, veterans who have been assessed as eligible for disability compensation during an exam that took place prior to their discharge from military service or who have received a memorandum from VA indicating a preliminary disability rating also would be exempt from paying the loan fee.

Veterans are only in such limbo status temporarily. Thus, the size of the veteran population who are awaiting adjudication of their claim is relatively stable, as those whose cases have been decided are replaced by new claimants. CBO expects that no more than 200 such veterans would apply for a VA-guaranteed loan in any year. Exempting those veterans from the loan fee would increase direct spending by $5 million over the 2012–2021 period, CBO estimates.

Temporary Residence Adaptation (TRA) Grants. Under current law, veterans who are classified by VA as totally disabled and who have certain mobility limitations are entitled to receive housing grants of up to $12,756 or $63,780 (based on the severity of their disabilities) to be used to purchase, construct, or modify a home to meet their specific needs. Under a pilot program, qualifying veterans may use up to $14,000 from the larger grant or $2,000 from the smaller grant to adapt the home of a family member when the veteran resides with that family member temporarily. Any amount used to adapt the home of a family member reduces the amount that remains available to be used later for the veteran's own home. This pilot program is scheduled to expire on December 31, 2011.

Sections 305 and 307 would extend the pilot program through December 31, 2021, increase the maximum grant amounts to modify a relative's home from $14,000 and $2,000 to $28,000 and $5,000, respectively, and no longer require that those amounts be subtracted from a veteran's total grant amount. Based on recent rates of usage of TRA grants, CBO estimates that about 25 veterans would benefit from those combined provisions each year, with each veteran receiving about $27,000 in adaptive housing assistance to modify a family member's home. If enacted, those provisions would increase direct spending by $7 million over the 2012–2021 period, CBO estimates.

Increased Pension for Married Veterans Requiring Aid and Attendance (A&A). Section 401 would increase the annual pension payable to married veterans when both spouses require regular A&A. Under current law, when two married veterans are in need of regular A&A, they are eligible to receive an annual combined pension of $30,480. Section 20 would increase that combined annual payment amount to $31,305.

There are currently about 75 married couples who are both receiving pensions and both in need of regular A&A. Based on information from VA, CBO estimates that the number of eligible couples will decline slightly over the next decade. Therefore, we estimate

that enacting section 401 would increase direct spending by about $1 million over the 2012–2021 period.

Presidential Memorial Certificates. Section 503 would expand the VA's Presidential Memorial Certificate program to include survivors of individuals who die while serving in the active military, naval, or air service. Through the Presidential Memorial Certificate program, a relative or friend can request a certificate signed by the President that expresses the country's recognition of a veteran's service. Eligibility for a certificate is currently limited to survivors of veterans who were honorably discharged from military service. Based on information from VA, CBO expects fewer than 100 additional requests would be made each year under this provision; therefore, CBO estimates section 503 would increase direct spending by less than $500,000 over the 2012–2021 period. Costs for the Presidential Memorial Certificates are paid out of the veterans' burial account, which is a mandatory program.

Extended Foreclosure Protection. Section 302 would prevent a lender from foreclosing on a servicemembers mortgage within 12 months after they leave active duty. The Servicemembers Civil Relief Act provides such foreclosure protection for a nine-month period. Federal agencies such as VA and the Federal Housing Administration, which currently guarantee the mortgages of some servicemembers, are responsible for the payment of any interest that accrues between the period when the member stops paying the mortgage and the agency finally settles with the holder of the loan. Therefore, delaying certain foreclosures could result in additional costs to the federal government. Because of the small number of affected mortgages, and the relatively small increase in the forbearance period, CBO estimates that such costs would not be significant.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. S. 914 would modify several programs that provide benefits to veterans. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

Table 4.—CBO Estimate of Pay-As-You-Go Effects for S. 914 as ordered reported by the Senate Committee on Veterans' Affairs on June 29, 2011

	By fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2016	2012–2021
NET INCREASE OR DECREASE (-) IN DIRECT SPENDING												
Statutory Pay-As-You-Go Impact	-18	0	1	2	-1	-1	2	2	2	4	-16	-7

Estimated impact on state, local, and tribal governments: S. 914 contains no intergovernmental mandates as defined in UMRA. States that provide nursing home care to eligible veterans would be required to comply with a new payment structure to receive federal reimbursement. Any costs to those governments would be incurred voluntarily as a condition of federal assistance.

Estimated impact on the private sector: Section 302 would extend the expiration date by three months (from the original nine months) the time after a servicemember's period of military service under which the member receives enhanced protection under the

Servicemembers Civil Relief Act relating to mortgages, mortgage foreclosures, and evictions. That action constitutes a mandate on mortgage holders. The cost of complying with the mandate would be the loss associated with delayed mortgage payments, delayed foreclosure, and interest-rate limitations. Based on historical separation rates, foreclosure rates, and mortgage-interest rates, CBO expects that the cost of the mandate would be small relative to the annual threshold for private-sector mandates ($142 million in 2011, adjusted annually for inflation).

Previous CBO estimates: On May 16, 2011, CBO transmitted a cost estimate for H.R. 1407, the Veterans' Compensation Cost-of-Living Adjustment Act of 2011, as ordered reported by the House Committee on Veterans' Affairs on May 12, 2011. Section 305 of S. 914 contains language similar to that in H.R. 1407. The difference in the estimated costs between the two provisions reflects different levels of assistance payable to qualifying veterans and different expiration dates.

On May 16, 2011, CBO transmitted a cost estimate for H.R. 1627, the Honoring American Veterans Act of 2011, as ordered reported by the House Committee on Veterans Affairs on May 12, 2011. Section 502 of S. 914 contains language similar to section 3 of H.R. 1627 and the corresponding estimates of costs are identical.

Estimate prepared by: Federal Costs: Ann E. Futrell, Bill Ma, David Newman, and Dwayne Wright; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Elizabeth Bass.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has made an evaluation of the regulatory impact that would be incurred in carrying out S. 914. The Committee finds that S. 914 would not entail any regulation of individuals or businesses or result in any impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by members of the Committee on Veterans' Affairs at its June 29, 2011, meeting. The Committee voted, without dissent, to report S. 914 as amended to the Senate.

AGENCY REPORT

On June 8, 2011, Robert L. Jesse, M.D., PhD., Principal Deputy Under Secretary for Health, Veterans Health Administration, Department of Veterans Affairs, appeared before the Committee and submitted testimony on various bills incorporated into the Committee bill. In addition, on June 28, 2011, VA provided views on various bills incorporated into the Committee bill. Excerpts from both the testimony and Department views are reprinted below:

STATEMENT OF ROBERT L. JESSE, M.D., PH.D., PRINCIPAL DEPUTY UNDER SECRETARY FOR HEALTH, VETERANS HEALTH ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

Good Morning Chairman Murray, Ranking Member Burr and Members of the Committee: Thank you for inviting me here today to present the Administration's views on several bills that would affect Department of Veterans Affairs (VA) benefits programs and services. Joining me today are Michael Cardarelli, Principal Deputy Under Secretary for Benefits, Richard Hipolit, Assistant General Counsel, and Walter A. Hall, Assistant General Counsel. We do not yet have cleared views on S. 411, S. 491, S. 873, S. 874, S. 914, S. 1017, S. 1060, S. 1089, S. 1104, S. 1123, S. 1124, and S. 1127 and the draft bill entitled "Veterans Programs Improvements Act of 2011." Also, we do not have estimated costs associated with implementing S. 396, S. 666, S. 910, S. 935, and section 9 of S. 951. We will forward the views and estimated costs to you as soon as they are available.

* * * * * * *

S. 423, PROVIDING AUTHORITY FOR A RETROACTIVE EFFECTIVE DATE FOR AWARDS OF DISABILITY COMPENSATION IN CONNECTION WITH APPLICATIONS THAT ARE FULLY-DEVELOPED AT SUBMITTAL

S. 423 would amend 38 U.S.C. § 5110(b) to authorize a potentially retroactive award of disability compensation to a Veteran whose compensation application was fully developed as of the date submitted to VA. The effective date of a compensation award based on the submittal of a fully developed application would be "fixed in accordance with the facts found," but could not be earlier than the date one year before the date the application was received by VA. The bill would allow VA to prescribe what constitutes a fully-developed claim for purposes of this provision.

VA does not support this bill because it would result in the inequitable treatment of Veterans who cannot submit a "fully-developed" claim. Currently, section 5110 authorizes a retroactive compensation award in two instances, both based on the timing of the application. VA may award compensation retroactively if VA receives the application within one year from the date of a Veteran's discharge or release from service or, in cases of increased compensation, if VA receives the application within one year of the date that an increase in disability is ascertainable. In either case, the timing of the application, and hence the eligibility for a retroactive award, is within a Veteran's control. The retroactive award S. 423 would authorize, however, is based not on the timing of the application, but rather on the nature of the claim and the evidence needed to decide the claim, matters that are not within a Veteran's

control. S. 423 would essentially penalize Veterans who cannot submit an application with the evidence necessary to decide the claim. The bill would result in retroactive compensation awards to Veterans whose claims involve simple factual issues or evidence within their possession or readily obtainable, but not to Veterans whose claims involve complex factual issues or evidentiary development, but are no less meritorious than the simple claims.

In addition, S. 423 would likely result in litigation over whether a claim was fully developed when submitted because VA's decision to obtain or request further evidence would preclude a retroactive award.

Although VA does not support S. 423, it appreciates the attempt to create an incentive for Veterans to file fully developed claims. VA believes a more balanced approach would create that incentive. VA has implemented a Fully Developed Claim (FDC) Program at all regional offices as a result of the Veterans' Benefits Improvement Act of 2008, Public Law 110–389, signed by the President on October 10, 2008. This law required VA to assess the feasibility and advisability of expeditiously adjudicating fully developed compensation or pension claims. Under the FDC program, a Veteran who submits a formal claim for benefits within one year from the date of VA's acknowledgement of receipt of the Veteran's informal claim may be awarded benefits effective from the date VA received the informal claim. Because the acknowledgement letter will include information about the evidence necessary to substantiate a claim for benefits, Veterans will be able to facilitate the processing of their claim by submitting evidence in conjunction with their formal claim. Thus, the timing of the application, not whether a fully developed claim is received, is determinative of whether retroactive benefits can be awarded. Further, this extra time allows any claimant the opportunity to assemble his or her claim package for submission, while still affording them the benefit of the FDC program and the potential of an earlier effective date.

VA estimates that enactment would result in benefit costs of $54.9 million for fiscal year 2012, $315.7 million over five years, and $761.7 million over ten years.

S. 486, PROTECTING SERVICEMEMBERS FROM MORTGAGE ABUSES ACT OF 2011

S. 486 would extend the Servicemembers Civil Relief Act (SCRA) period of protections relating to real and personal property from 9 months to 24 months. This bill would also change violations of SCRA from a misdemeanor to a felony and increase civilian penalty amounts.

VA defers to the Departments of Defense and Justice regarding the merits of this bill. We are unable at this time to provide cost estimates associated with enactment of this bill, but will provide that information in writing for the record.

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S. 536, PROVIDE THAT UTILIZATION OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE SHALL NOT BE SUBJECT TO THE 48-MONTH LIMITATION

S. 536 would amend section 3695(a)(4) of title 38, United States Code, to exempt individuals eligible for VA education benefits under the chapter 35 Survivors' and Dependents' Educational Assistance (DEA) program from the 48-month limitation on the use of educational assistance under multiple Veterans' and related educational assistance programs. This amendment would allow an individual to receive up to 45 months of benefits under the DEA program and up to 48 months of benefits under other educational assistance programs administered by VA. The amendment would take effect on the date of enactment of S. 536. By its own terms, however, it would not revive any entitlement to educational assistance under chapter 35 or any other provision of law listed in section 3695(a) that terminated prior to that date.

Under current law, section 3695(a) limits to 48 months the aggregate entitlement for any individual who receives educational assistance under two or more programs. This provision applies, in part, to the Montgomery GI Bill Active Duty (MGIB-AD/chapter 30), the Vietnam Era Assistance Program (VEAP/chapter 32), the Post-9/11 GI Bill (chapter 33), the Survivors' and Dependents' Educational Assistance program (chapter 35), the Montgomery GI Bill Selected Reserve (MGIB-SR/chapter 1606), and the Reserve Educational Assistance Program (REAP/chapter 1607).

Beginning on the date of enactment of this bill, as noted above, VA would not consider an individual's chapter 35 entitlement when applying the 48-month limitation in section 3695(a). The amendment also would be applicable to those individuals who, as of the day before enactment, had not used a total of 48 months of benefits entitlement (regardless of whether the 48 months included receipt of chapter 35 benefits). Thus, those individuals with remaining entitlements under other educational assistance programs administered by VA on the bill's date of enactment would have their entitlement to such programs determined without consideration of the benefits they used under chapter 35.

VA does not have the specific data necessary to cost this proposal. While VA can determine the number of participants who used prior VA training and the amount of entitlement used in previous programs, we cannot extract the specific Survivors' and Dependents' Educational Assistance program population affected by this proposal. The system used to process chapter 35 claims stores and retrieves information for beneficiaries using the Veteran's file number. Although information specific to the individual is stored in the record, the system uses the file number to search for multiple records. As a result, a query of the chapter 35 file numbers would provide information on Veterans rather than the beneficiaries of the Survivors' and Dependents Educational Assistance program. Further, VA has no way of determining how many servicemembers elected not to participate in the MGIB-AD program because of prior chapter 35 benefits or how many individuals potentially eligible for the Post-9/11 GI Bill are or were eligible for chapter 35 benefits.

VA supports the intent of S. 536 and favors enactment of the bill, subject to Congress finding offsetting savings. While we are unable to extract a specific population and are unable to provide costs, we estimate that a student who used 45 months of benefits under the Survivors' and Dependents' Educational Assistance program would receive an additional $51,336 for a full 36 months of training under the Montgomery GI Bill—Active Duty program. Similarly, we estimate that a student in receipt of benefits at the 100 percent eligibility tier under the Post-9/11 GI Bill program would receive an additional $87,544 for 36 months of benefits.

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S. 666, VETERANS TRAUMATIC BRAIN INJURY CARE IMPROVEMENT ACT OF 2011

S. 666, the "Veterans Traumatic Brain Injury Care Improvement Act of 2011," would require the Secretary to submit to Congress a report on the feasibility and advisability of establishing a Polytrauma Rehabilitation Center or Polytrauma Network Site for VA in the northern Rockies or the Dakotas.

VA shares the concern for providing treatment facilities for polytrauma in this region. Consequently, in 2010, VA completed an assessment of need and determined that an enhanced Polytrauma Support Clinic Team with a strong telehealth component at the Ft. Harrison, Montana, VA facility would meet the needs and the workload volume of Veterans with mild to moderate Traumatic Brain Injury (TBI) residing in the catchment area of the Montana Healthcare System. It would also facilitate access to TBI rehabilitation care for other Veterans from the northern Rockies and the Dakotas through telehealth. VA has initiated hiring actions to fill additional positions needed to enhance the Polytrauma Support Clinic Team at Fort Harrison. We anticipate these positions will be in place by the end of 2011. However, establishment of a Polytrauma Rehabilitation Center or Polytrauma Network Site, which would focus on the treatment of moderate to severe TBI, is not feasible or advisable in this area based on the needs of the population served. Because of the action already being taken by VA, this bill is not necessary, and we thus cannot support it.

The estimated cost of staffing the Polytrauma Support Clinic Team at Ft. Harrison would be $1.5 million in the first year, $6.2 million for five years, and $13.0 million over ten years. We do not have estimated costs for implementing the bill but will provide them when they are available.

Mr. Chairman, we would be pleased to provide the Committee with more detailed information about our findings and decisions regarding the northern Rockies and the Dakotas.

S. 696, TREATMENT OF VET CENTERS AS DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR PURPOSES OF PAYMENTS OR ALLOWANCES FOR BENEFICIARY TRAVEL TO DEPARTMENT FACILITIES

S. 696 would require VA to make beneficiary travel payments to persons traveling to and from Vet Centers if those persons would otherwise be eligible for these payments under VA's authority to pay beneficiary travel. VA is very interested in the possibility of ex-

panding this benefit to include travel to and from Vet Centers, but recommends that no action be taken on this bill at this time. In an effort to better assess the various factors potentially affecting implementation of such a travel benefit, VA began a 6-month analysis on May 1, 2011 at three Vet Centers to identify a model process for administering benefits. The analysis will: assess the likely utilization of the benefit; identify issues associated with administering this benefit; determine the potential impact this benefit would have on the Vet Center culture and Veterans' privacy concerns; develop a model that can determine the upper and lower bounds for demand for this benefit; and create a behavioral model that can estimate potential changes in Veteran utilization of Vet Center services.

This analysis will include focus groups of Veterans utilizing Vet Center services to assess various cultural variables, such as the effect this benefit might have on the Vet Center environment and services, as well as Veteran support for the implementation of this program. VA will also survey Veterans receiving Vet Center services to identify their interest, the average distance they travel to a Vet Center, and the number of visits they typically make each month. VA will also review data from the existing beneficiary travel program to estimate economic and behavioral impacts on utilization rates. VA believes this to be a prudent approach that will allow us to determine the likely impacts of such a change, prepare for any changes in demand for Vet Center services, and include a budget request sufficient to support these benefits or any other changes resulting from enactment. VA will provide an update to Congress at the end of this analysis with its results, conclusions and recommendations.

Given available data, VA estimates the cost of S. 696 in fiscal year 2012 to be $3.7 million, $23.3 million over five years, and $63.2 million over ten years. VA notes these estimates may change based on the results of the aforementioned analysis, and VA will provide an updated cost estimate to the Committee when we have completed this analysis.

S. 698, CODIFYING THE PROHIBITION AGAINST THE RESERVATION OF GRAVESITES AT ARLINGTON NATIONAL CEMETERY

S. 698 would limit to one the number of gravesites at Arlington National Cemetery that may be provided to a Veteran or a Member of the Armed Forces who is eligible for interment at that cemetery and the Veteran's or Member's family members who are eligible for interment there. The bill would also prohibit pre-need reservations of gravesites at Arlington National Cemetery and would require the Secretary of the Army to submit to Congress a report on reservations made at Arlington National Cemetery.

VA defers to DOD regarding S. 698 because the Secretary of the Army is responsible for the management and operation of Arlington National Cemetery.

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S. 769, VETERANS EQUAL TREATMENT FOR SERVICE DOGS ACT OF 2011

S. 769 would prohibit the Secretary from excluding from any VA facilities or property or any facilities or property that receive funding from VA, service dogs trained for use by Veterans enrolled in the VA health care system who were provided service dogs for reasons of hearing impairment, spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility, and mental illness including Post Traumatic Stress Disorder.

VA acknowledges that trained service dogs can have a significant role in maintaining functionality and promoting maximum independence of Veterans with disabilities. VA recognizes the need for Veterans with disabilities to be accompanied by their trained service dog on VA properties consistent with the same terms and conditions, and subject to the same regulations as generally govern the admission of members of the public to the property. However, S. 769 is unnecessary. Under existing statutory authority in 38 U.S.C. 901, VA can implement national policy for all VA properties, and in fact did so for VHA facilities and property on March 10, 2011 (VHA Directive 2011–2013), directing that both Veterans and members of the public with disabilities who require the assistance of a trained guide dog or trained service dog be authorized to enter VHA facilities and property accompanied by their trained guide dog or trained service dog consistent with the same terms and conditions, and subject to the same regulations that govern the admission of members of the public to the property. We would be glad to provide a copy of the Directive for the record. This Directive requires each Veterans Integrated Service Network (VISN) Director to ensure all VHA facilities have a written policy on access for guide and service dogs meeting the requirements of the national policy by June 30, 2011. In addition, VA intends to initiate rulemaking that will establish criteria for service dog access to all VA facilities and property in a manner consistent with the same terms and conditions, and subject to the same regulations as generally govern the admission of members of the public to the property while maintaining a safe environment for patients, employees, visitors, and the service dog.

We note that VA's new Directive is much broader in scope than S. 769 which would only apply to certain Veterans and not members of the public. In particular, it would only apply to that subset of Veterans who are enrolled in VA's health care system and who were provided service dogs for reasons of hearing impairment, spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility, and mental illness including Post Traumatic Stress Disorder pursuant to 38 U.S.C. 1714. VA's policy allows not only all Veterans with a disability that requires the assistance of a trained guide dog or trained service dog, but also members of the public including Veterans' families and friends with disabilities, to be accompanied by their trained guide dogs or trained service dogs in VHA facilities or properties.

The bill also prohibits the Secretary from excluding service dogs from any facility or on any property that receives funding from the Secretary. Such a prohibition is unnecessary because it duplicates other statutes discussed below.

Any non-VA facilities and properties with which S. 769 is concerned that are also owned or controlled by the Federal Government must under current law at 40 U.S.C. § 3103, admit on the same terms and conditions, and subject to the same regulations, as generally govern the admission of the public to the property, specially trained and educated guide dogs or other service animals accompanying individuals with disabilities. Other non-VA properties not otherwise owned or controlled by the Federal Government, including but not limited to professional offices of health care providers, hospitals, and other service establishments, will almost certainly meet the definition of a place of public accommodation or public entity under the Americans with Disabilities Act of 1990 as prescribed in regulations at 28 CFR §§ 35.104 and 36.104, and therefore be required to modify their policies, practices, or procedures to permit the use of a service animal by an individual with a disability in accordance with 28 CFR §§ 35.136 and 36.302. We would note that VA facilities are not subject to the Americans with Disabilities Act of 1990, but are subject to the Rehabilitation Act. The Rehabilitation Act does not specifically address the issue of service dogs in buildings or on property owned or controlled by the Federal Government, but does prohibit discrimination against individuals with disabilities, including those who use service animals, in federally-funded or -conducted programs and activities. In addition, as explained above, there are other existing authorities that address the issue of bringing guide dogs and other service animals onto VA property.

VA estimates that there would be no costs associated with implementing this bill.

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S. 815, SANCTITY OF ETERNAL REST FOR VETERANS ACT OF 2011 OR THE SERVE ACT OF 2011

S. 815, the "Sanctity of Eternal Rest for Veterans Act of 2011" or the "SERVE Act of 2011," would amend titles 18 and 38, United States Code, to guarantee that military funerals are conducted with dignity and respect. Section 2 of the bill would state the purpose of the bill, to provide necessary and proper support for the recruitment and retention of the U.S. Armed Forces and militia employed in the service of the United States by protecting the dignity of their members' service and the privacy of persons attending their members' funerals. It would also state Congress' findings regarding the constitutional authority for the bill. Section 3 of the bill would amend title 18, United States Code, making it unlawful to engage in certain activities within a certain distance from, and during a certain period in relation to, any funeral of a member or former member of the Armed Forces not located at a cemetery under the control of the National Cemetery Administration (NCA) or a part of Arlington National Cemetery. It would provide for punishment by fine or imprisonment or both, give U.S. district courts jurisdiction to entertain suits for enjoining violations of the provision and complaints for damages resulting from conduct that violates the provision, authorize the Attorney General to institute proceedings, and authorize suits to recover damages. Although this

section of the bill is inapplicable to NCA cemeteries, VA supports its enactment because it would establish a unified approach to preserve the dignity of funeral services and reinforces the commitment to protect the privacy of attendees during their time of bereavement.

Section 4 of the bill would make several changes to 38 U.S.C. § 2413 to make it align with the title 18 provisions applicable to non-NCA cemeteries. Section 2413 currently prohibits certain demonstrations: (1) on the property of an NCA-controlled national cemetery or of Arlington National Cemetery without official approval; and (2) during a period beginning one hour before and ending one hour after a funeral, memorial service, or ceremony is held if any part of the demonstration takes place within a certain distance of such a cemetery, disturbs the peace, or impedes access to or egress from such a cemetery. The effect of the amendment is to expand the time period during which demonstrations are prohibited to begin two hours before and end two hours after a funeral, and increase the distance restriction for demonstrations from 150 feet to 300 feet of the cemetery or a road, pathway, or other route of ingress or egress from the cemetery. It would increase protections against willful conduct which causes or assists in making noise or diversion that disturbs the funeral or memorial service, or unauthorized conduct that impedes the access to or egress from the cemetery by the funeral procession by increasing the boundary limits for engaging in such prohibited conduct from 300 feet to within 500 feet of the cemetery where the funeral is held. The bill provides for punishment by fine or imprisonment or both, gives U.S. district courts jurisdiction to entertain suits for enjoining violations of the provision and complaints for damages resulting from conduct that violates the provision, authorizes the Attorney General to institute proceedings, and authorizes suits to recover damages. The bill also contains a clerical amendment to revise the heading for section 2413.

VA supports section 4 of this bill to ensure the privacy and protection of grieving families during funeral, memorial and ceremonial services meant to honor these fallen heroes who, through their service, paid the ultimate price. If enacted, S. 815 would have no monetary impact on NCA's current practice of coordinating with local law enforcement and community supporters.

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S. 928, LIMITING THE AUTHORITY OF THE SECRETARY OF VETERANS AFFAIRS TO USE BID SAVINGS ON MAJOR MEDICAL FACILITY PROJECTS OF THE DEPARTMENT OF VETERANS AFFAIRS TO EXPAND OR CHANGE THE SCOPE OF A MAJOR MEDICAL FACILITY PROJECT OF THE DEPARTMENT

S. 928 would amend title 38, Section 8104(d)(2) of the United States Code, to limit the authority of the Secretary of VA to use bid savings on major medical facility projects of the Department, to expand or change the scope of a major medical facility project of the Department, and for other purposes. The Secretary would be required to submit a notice to the Committees identifying the major medical facility project that is the source of the bid savings,

the major medical facility project to be expanded or changed in scope, describe the expansion or change in scope, and identify the amounts intended to be obligated for the expansion or change in scope. The Secretary would then be required to wait until legislation is enacted before making a contract obligation. However, ample congressional notification requirements for changes or expansions in scope are already in place. VA thus opposes this legislation as unnecessary.

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S. 957, VETERANS' TRAUMATIC BRAIN INJURY REHABILITATIVE SERVICES IMPROVEMENTS ACT OF 2011

In 2008, Congress established several programs targeted at the comprehensive rehabilitation of Veterans and members of the Armed Services receiving VA care and services for Traumatic Brain Injuries (TBI). In general, S. 957 seeks to improve those programs (established by 38 U.S.C. §§ 1710C-E) by requiring rehabilitative services, as defined by the bill and discussed below, to be an integral component of those on-going programs. With two exceptions, we have no objection to S. 957.

Currently, the provisions of 38 U.S.C. § 1710C set forth the requirements for an individualized rehabilitation and reintegration plan that must be developed for each Veteran or member of the Armed Forces receiving VA inpatient or outpatient rehabilitative hospital care or medical services for a TBI. VA Handbook 1172.04, *Physical Medicine and Rehabilitation Individualized Rehabilitation and Community Reintegration Care Plan*, implements section 1710C.

Section 2(a) of S. 957 would amend some of the mandated requirements in section 1710C. Specifically, it would clarify that the goal of each individualized plan is to maximize the individual's independence and quality of life. It would also require, as part of a plan's stated rehabilitative objectives, the sustaining of improvements made in the areas of physical, cognitive, and vocational functioning. Section 2(a) of the bill would further require that each such plan include rehabilitation objectives for improving and sustaining improvements in the individual's behavioral functioning as well as mental health.

These amendments would not alter VA's policy or operations in any significant way, as VA's primary aim for Veterans with serious or severe injuries has always been, and continues to be, maximizing their independence, health, and quality of life. It is out of these concerns that VA has developed robust rehabilitation therapy programs to help them learn or re-learn skills and develop resources for sustaining gains made in their rehabilitation.

Section 2(a) of the bill would require the individual plans to include access, as warranted, to all appropriate rehabilitative services of the TBI continuum of care. The law now requires these plans to provide access, as warranted, to rehabilitative components of the TBI continuum of care (which includes, as appropriate, access to long-term care services).

Current law also requires that each individualized plan include a description of the specific "rehabilitation treatments and other

services" needed to achieve the patient's rehabilitation and reintegration goals. Section 2(a) of the bill would replace all references to "treatments" in the affected provision with "services." This would ostensibly broaden the scope of rehabilitative benefits available to these patients beyond what is deemed to be treatment per se.

It would also add to each plan the specific objective of improving (and sustaining improvements in) the patient's behavioral functioning. That addition, together with the existing rehabilitation objective to improve a patient's cognitive functioning, would effectively encompass all relevant mental health issues related to TBI. For that reason, we believe the bill's other amendment to separately include a rehabilitation objective for improving "mental health" would create confusion or redundancy. We thus recommend that language be deleted.

Most notably, section 2(a) of S. 957 would establish a new definition of the term "rehabilitative services," for purposes of all of VA's specially targeted, statutory programs for TBI-patients (i.e., 38 U.S.C. §§ 1710C–E). Such services would include not only those that fall under the current statutory definition found in 38 U.S.C. 1701 but also "services (which may be of ongoing duration) to sustain, and prevent loss of, functional gains that have been achieved." Plus, they would include "any other services or supports that may contribute to maximizing an individual's independence and quality of life." This last definition is overly broad and could be read to include services or items well beyond the field of health care. It is also unworkable. What maximizes an individual's "quality of life" is highly subjective, and, as such, the term defies consistent interpretation and application. Quite simply, we believe enactment of that last provision of the proposed new definition would conflict with, and exceed, our primary statutory mission, which is to provide medical and hospital care. It should therefore be deleted, leaving only the first two prongs of the definition.

Next, as briefly alluded to above, the individualized rehabilitation and reintegration plans required by section 1710C must include access, where appropriate, to long-term care services. The eligibility and other requirements of VA's mandated comprehensive program of long-term care for the rehabilitation of post-acute TBI are found in 38 U.S.C. § 1710D. Section 2(b) of S. 957 would require the Secretary to include rehabilitative services (as that term would be defined by Sec. 2(a) of the bill) in the comprehensive program. It would also eliminate the word "treatment" in the description of the interdisciplinary teams to be used in carrying out that program. We have no objection to this proposed revision.

Last, Congress authorized VA, under specified circumstances, to furnish hospital care and medical services required by an individualized rehabilitation and reintegration plan through a cooperative agreement. (A cooperative agreement may be entered only with an appropriate public or private entity that has established long-term neurobehavioral rehabilitation and recovery programs.) This authority is found at 38 U.S.C. 1710E. Section 2(c) of S. 957 would add "rehabilitative services" (again as defined by Sec. 2(a) of the bill) to the types of services that may be provided under those agreements. We have no objection to this proposed revision.

Section 2(d) of S. 957 is merely a technical amendment to correct a typographical error in section 1710C(c)(2)(S) of title 38, United States Code. We would also like to point out another technical issue. Current law permits inclusion of "educational therapists" among the TBI-experts responsible for conducting a comprehensive assessment of each patient. (It is this assessment which serves as the basis for the individualized plans discussed above.) This categorization of professionals is no longer used in the field of medical rehabilitation.

Aside from the two (substantive) modifications discussed above (deleting the phrase "any other services or supports that may contribute to maximizing an individual's independence and quality of life" from the new definition of the term "rehabilitative services," and deleting the bill's amendment to separately include a rehabilitation objective for improving "mental health"), we have no objection to S. 957, and no new costs would be associated with its enactment.

S. 1148, THE VETERANS PROGRAMS IMPROVEMENT ACT OF 2011

On June 6, Chairman Murray introduced S. 1148, the Veterans Programs Improvement Act of 2011. We note that the bill carries many provisions proposed by the Administration, in its draft Veterans Benefits Improvement Act of 2011, transmitted to the Senate on May 19, 2011. We have not had the opportunity to review the bill closely regarding its technical aspects, but we offer here our support of the general intent of those provisions, and VA's appreciation for your including them for consideration. We believe they are very worthy of the Committee's endorsement. We also look forward to reviewing the other titles of the bill which address VA's programs to combat homelessness as well as VBA's fiduciary program.

This concludes my prepared statement. Madam Chairman, we would be pleased to respond to whatever questions you may have.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

June 28, 2011

The Honorable Patty Murray
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Madam Chairman:

The agenda for the Senate Committee on Veterans' Affairs' June 8, 2011, hearing included a number of legislative proposals that the Department of Veterans Affairs (VA) was unable to address in its testimony. We are aware of the Committee's interest in receiving VA's views on those proposals as soon as possible. By this letter, I am providing VA's views and cost estimates on Title II of S. 1148, the Veterans Programs Improvement Act of 2011. I will provide views on the remaining legislative proposals in a separate letter.

Section 201

Section 201(a) would amend 38 U.S.C. § 5502(a), VA's statutory authority for paying VA benefits to a fiduciary on behalf of a beneficiary rated incompetent to handle his or her funds, to require VA to pay "the person or entity caring for or having primary custody of the beneficiary or the beneficiary's estate, including a person or entity who has been named by the incompetent beneficiary under a durable power of attorney," in the absence of special circumstances VA determines necessitate otherwise.

VA strongly opposes section 201(a) because it would mandate, in the absence of special circumstances, payment of an incompetent beneficiary's benefits to the beneficiary's caregiver. The policy of the Veterans Benefits Administration (VBA) is to consider first as a fiduciary the person charged with the care or custody of an incompetent beneficiary. However, it is also VBA policy to employ the most effective and least restrictive method of payment. A caregiver should be subject to the same qualifications as required by 38 U.S.C. § 5507 for any other fiduciary, which ensure that a fiduciary has the ability to utilize benefit payments for the beneficiary's well being while safeguarding the beneficiary's family and taxpayers. Paying benefits to a beneficiary's caregiver may simply not be in the beneficiary's best interest.

VA also strongly opposes mandating payment of an incompetent beneficiary's benefits to the person or entity named by the beneficiary in a durable power of attorney. Again, payment of benefits to such a person or entity may not be in the beneficiary's best interest. The beneficiary's incompetence to handle funds itself calls into question whether the person or entity named in a power of attorney by an incompetent beneficiary is best suited to act as fiduciary.

2.

The Honorable Patty Murray

Also, ascertaining the validity of a durable power of attorney would be difficult because state laws governing powers of attorney vary considerably from state to state, and the investigation into the validity of a power of attorney would ultimately delay payments.

Section 201(b) would reorganize the provisions of section 5502(d), governing the distribution of benefits suspended or withheld from a fiduciary. The reorganization would improve the readability of the provisions, and for that reason VA supports that amendment. As a technical matter, the word "veterans'" on page 14 of the bill, line 12, should be changed to "veteran's."

Section 201(c) would amend the definition of the term "fiduciary" in 38 U.S.C. § 5506 to include a person named as an agent under a durable power of attorney. As explained above, VA strongly opposes the mandatory recognition as a fiduciary of the person or entity named by an incompetent beneficiary in a durable power of attorney.

No mandatory or discretionary cost would be associated with section 201 of S. 1148.

Section 202

Section 202(a) would grant VA the authority to require a fiduciary for a VA beneficiary to authorize VA to obtain from any financial institution any financial record held by the institution regarding an account of the fiduciary or beneficiary when VA determines that the record is necessary for the administration of a VA program or to safeguard the beneficiary's benefits against neglect, misappropriation, misuse, embezzlement, or fraud. The authorization would remain in effect until the earliest of the following: the approval by a court or VA of a final accounting of payment of VA benefits to a fiduciary on behalf of the beneficiary; in the absence of evidence of neglect, misappropriation, misuse, embezzlement, or fraud, the fiduciary's express revocation of the authorization in a written notification to VA; or the expiration of three years from the date of authorization. Section 202(a) would also require VA to inform any person or state or local governmental entity providing authorization of the duration and scope of the authorization. If a fiduciary refuses to provide or revokes any authorization to permit VA to obtain from any financial institution financial records concerning VA benefits paid for a beneficiary, VA would be specifically authorized to revoke the appointment or recognition of the fiduciary for the beneficiary in question and for any other beneficiary for whom the fiduciary has been appointed or recognized. Section 202(b) would amend the definition of the term "fiduciary" in 38 U.S.C. § 5506 to explicitly include a state or local governmental entity.

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Section 202 is almost identical to section 106 of a legislative proposal the Secretary transmitted to the Committee on May 19, 2011. VA strongly supports its enactment. Section 202 would increase VA's access to fiduciaries' accounts and allow VA to monitor fiduciary activities more effectively, including verification of account balances. It also would assist VA in preventing misuse and abuse of benefit payments.

Under 38 U.S.C. § 5502, VA is required to supervise the fiduciaries it appoints to manage the financial affairs of incompetent beneficiaries. In 38 U.S.C. § 5507, Congress increased VA's fiduciary oversight responsibilities and imposed penalties on VA for cases involving misuse where failure to properly supervise fiduciaries is found. A main component of estate supervision is a yearly audit to ensure proper use of VA funds. Under 12 U.S.C. § 3404(a)(1), disclosures are authorized for a period not to exceed three months. Therefore, VA must frequently solicit an updated authorization. Section 202 would reduce this administrative burden. Given that many fiduciary appointments remain in place for the life of a beneficiary, the authorization should be extended to the life of the fiduciary relationship. This would further enhance VA's efficiency and oversight ability.

There would be no additional benefit or administrative costs associated with this provision.

Section 203

Current 38 U.S.C. § 5507 requires VA to conduct an inquiry or investigation into the fitness of a person to serve as a beneficiary's fiduciary before certifying the person to receive VA benefit payments as a fiduciary. The inquiry or investigation is to include, to the extent practicable, obtaining a copy of the person's credit report and requesting information concerning whether the person has been convicted of an offense that resulted in imprisonment for more than one year. Section 203(a) of S. 1148 would amend section 5507 to require VA to segregate from a claimant's file any credit report and criminal background report obtained pursuant to that section. It would permit disclosure of such reports only upon obtaining a signed release from the person to whom the reports relate.

Section 203(b) would amend 38 U.S.C. § 5701 to deem all files, records, reports, and other papers and documents pertaining to any credit report, criminal background evaluation, or financial record obtained in connection with the evaluation, appointment, or removal of a person as a fiduciary, as well as the names and addresses of such persons, confidential, privileged, and protected from disclosure except as provided in section 5701. It would also add to the list in section 5701(b) of statutorily mandated disclosures disclosure to a person who has submitted to VA personal identifying, financial, or criminal background

information in connection with an appointment as a fiduciary for a beneficiary as to matters concerning the person or the person's duly authorized agent or representative.

Furthermore, section 203(b) would limit one disclosure currently mandated by section 5507(b), that required by process of a United States court to be produced in a pending suit or proceeding. In an electronic or paper filing with a court that contains an individual's Social Security number, tax identification number, or claim number, only the last four digits of such number could be included. In such a filing that contains an individual's birth date, only the year of birth could be included. In such a filing that contains the name of an individual known to be a minor or whom VA has determined to be incompetent, only the individual's initials could be included. And in such a filing that contains a financial account number, only the last four digits of that number could be included.

Current section 5701(h)(1) authorizes the release of certain information if the release is necessary for a purpose described in section 5701(h)(2). Those purposes now relate to matters under VA's housing and small business loan programs. Section 203(b) would add to that list of purposes determining and verifying the creditworthiness, credit capacity, income, or financial resources of a person who is or is being considered for appointment as a fiduciary.

VA supports the concept of providing additional confidentiality guarantees to information obtained from or about individuals who are considered for appointment as fiduciaries for VA beneficiaries, but VA objects to amending 38 U.S.C. § 5701 to accomplish this objective. Within VA, section 5701 is known as the "Veterans Confidentiality Statute" because it pertains solely to information collected from and about Veterans, their beneficiaries, and survivors claiming or receiving benefits administered by VA. The current provisions of section 5701 in no way relate to fiduciaries or any other individuals about or from whom VA may collect information. Generally, records regarding those individuals are protected by Executive Branch-wide confidentiality statutes such as the Privacy Act of 1974, 5 U.S.C. § 552a. We would be happy to work with Committee staff to find an alternative to accomplish the purpose for these amendments.

Administrative costs associated with section 203 cannot be determined before creating a separate system of records to hold confidential information.

Section 204

Under 38 U.S.C. § 5101(a), a specific claim in the form prescribed by VA is required for benefits to be paid or furnished to any individual. VA generally requires an application form signed by the claimant. Section 204 would authorize someone other than the claimant to sign the required form under certain circumstances. If a claimant has not yet attained age 18, is mentally

incompetent, or is physically unable to sign a form, section 204 would authorize signature by a court-appointed representative, a person responsible for the care of the claimant (including a spouse or other relative), or an attorney in fact or agent authorized under a durable power of attorney to act on the claimant's behalf. If a claimant is in the care of an institution, it would authorize signature by the manager or principal officer of the institution.

Section 204 would also require a person who signs an application form on behalf of a claimant to furnish, if requested by VA, his or her Social Security number or taxpayer identification number if "the person is not an individual." It would also define the term "mentally incompetent" for purposes of these provisions.

VA does not oppose section 204 because it would make the application process easier and more convenient for some claimants.

No mandatory or discretionary cost would be associated with section 204.

Section 205

Section 205 would make two changes to 38 U.S.C. § 5105, which currently requires VA and the Social Security Administration (SSA) to jointly prescribe forms for use by survivors of deceased Servicemembers or Veterans to apply for survivors' benefits administered by each agency and requires that an application on such a form filed with either agency be deemed to be an application for benefits from both agencies. Section 205 would change the former mandate to an authorization and would liberalize the latter mandate to apply to an application "on any document indicating an intent to apply for survivor benefits."

VA supports section 205. Providing VA and the SSA the option of jointly prescribing a form, rather than requiring it, is appropriate in view of the changes that have occurred since the enactment in 1956 of the provisions now codified in section 5105. The advent of the Internet, online applications, and assistive resources such as state and county claim representatives have obviated the need for a jointly prescribed form to reduce the administrative burden on Veterans' survivors in obtaining survivors' benefits. Furthermore, a mutual application form is impracticable given each agency's different eligibility requirements and each agency's employees' unfamiliarity with the legal and administrative requirements of the other agency. Section 205 will give VA and SSA flexibility to formulate application processes best suited to each agency's needs.

No mandatory or discretionary cost would be associated with section 205.

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Section 206

Section 206 would add to the list in 38 U.S.C. § 101 of definitions generally applicable to title 38, United States Code, a definition of "durable power of attorney." That term would be used in 38 U.S.C. §§ 5101(a) and 5502(a) as amended by sections 201(a) and 204(a) of the bill.

VA does not support this provision. Because VA opposes sections 201(a) and 204(a), VA believes there is no need for a definition of "durable power of attorney" generally applicable to title 38. No mandatory or discretionary cost would be associated with section 206.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Eric K. Shinseki

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, June 28, 2011.

Hon. PATTY MURRAY,
Chairman,
Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The agenda for the Senate Committee on Veterans Affairs' June 8, 2011, legislative hearing included a number of bills that the Department of Veterans Affairs was unable to address in our testimony. We are aware of the Committee's interest in receiving our views on those bills in advance of the June 29 mark-up. By this letter, we are providing our views and cost estimates on S. 411, S. 491, S. 914, S. 1017, sections 202 and 305 of S. 1060, S. 1104, S. 1127, and titles I and III of S. 1148. We will provide views on the remaining bills in a separate letter.

This Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration.

We appreciate this opportunity to comment on this legislation and look forward to working with you and the other Committee Members on these important legislative issues.

Sincerely,

ERIC K. SHINSEKI

Enclosure.

ENCLOSURE
VA VIEWS

S. 411 "HELPING OUR HOMELESS VETERANS ACT OF 2011"

S. 411 would authorize VA to enter into agreements with certain entities to collaborate in the provision of case management services as part of the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program. In addition, S. 411 would require the Department of Veterans Affairs (VA), in consultation with the Department of Housing and Urban Development (HUD), to ensure that the distribution of vouchers to Veterans under the HUD-VASH program meets the needs of Veterans in rural areas and underserved Veterans in metropolitan areas or on Indian lands. This bill would expand VA's existing authority to provide case management services and collaborate with other entities. VA supports this bill, although we do have one technical comment and a suggestion for improving this bill.

S. 411 specifically authorizes VA to enter into these agreements with tribal organizations. However, tribal lands do not have public housing agencies and because public housing agencies are the sole mechanism for issuing section 8 Housing Choice Vouchers to Veterans, S. 411 would not expand the HUD-VASH program to Veterans living on Indian lands. We note that there are other HUD programs available to Veterans on Indian lands.

In order to maximize care coordination and to implement and sustain a shared case management model that supports permanent housing, VA proposes including a provision in S. 411 to authorize VA to provide Technical Assistance (TA) to community partners. TA would focus on compliance with documentation and program evaluation standards, implementing best practices strategies to coordinate with VA treatment, and other supportive services that promote rapid access and sustainment of permanent supportive housing. TA would also support site visits for monitoring and promoting the coordination and creation of shared learning communities, as well as the development of webinars that teach shared best practices. TA would encourage a "Housing First" treatment intervention for homeless Veterans by targeting the chronic homeless and the most vulnerable Veterans. Money management and addressing unmet health care needs of homeless Veterans are other essential components that TA would further enhance. Through these efforts, VA will continue to work with local public housing agencies and support interventions with homeless Veterans in crisis by utilizing motivational interviewing to promote treatment.

VA estimates that there would be no costs associated with implementing S. 411. If S. 411 is amended to include a provision authorizing VA to provide technical assistance, VA anticipates the cost associated with this bill would be $300,000 in fiscal year (FY) 2012 and $750,000 over the next three fiscal years. VA only anticipates the need for additional funds for technical assistance for the first three fiscal years. After that, VA believes the costs could be rolled into the homeless program's operating budget.

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S. 914 TO AUTHORIZE WAIVER OF COPAYMENTS FOR TELEHEALTH AND TELEMEDICINE

S. 914 would add a new section to title 38, U.S.C., that would authorize VA to waive copayment requirements for Veterans' telehealth and telemedicine visits. VA opposes this legislation because it would create an inequity in billing practices for services provided to Veterans. We believe it would be inappropriate to waive copayments for Veterans who receive telehealth services at a VA facility while Veterans who see their VA provider in person in the same facility would be charged a copayment.

Under existing authority, no Veteran is charged a copayment for telephone calls, since in many cases they are used simply as a means to check on the progress of a Veteran, not to deliver care. VA believes the use of video consultation into the home is analogous to that of a telephone call and that copayments for clinical video telehealth services provided directly into a patient's home should be considered for exclusion from copayments. VA plans under its existing authority (38 U.S.C. 1710(g)) to exempt copayments for video consultations when the Veteran is located at his or her home.

Recent VA experience demonstrates that copayments for home-telehealth may have resulted in a reduced use of this intervention. To ensure convenient and cost effective care to populations of patients who will otherwise delay care and incur larger costs from emergency room visits and hospital admissions, VA will take the appropriate action to exempt copayments for in-home video telehealth care for Veterans. Because VA already has the authority to waive or modify the imposition of copayments for such care, legislation is not required.

If copayments are not collected for all telehealth or telemedicine services, VA estimates a revenue loss of $2.2 million in FY 2012, $18.0 million over 5 years, and $72.9 million over 10 years.

S. 1017 "DISABLED VETERAN CAREGIVER HOUSING ASSISTANCE ACT OF 2011"

S. 1017 would increase the amount of Specially Adapted Housing (SAH) assistance available to disabled Veterans who reside temporarily in housing owned by family members, and would also expand SAH eligibility for the visually impaired. Provided Congress identifies appropriate and acceptable offsetting PAYGO cost savings, VA supports this legislation.

Section 2 of the bill would amend 38 U.S.C. 2102A, SAH assistance for disabled Veterans and Servicemembers who reside temporarily in housing owned by a family member. In general, subsection (a) would increase, from $14,000 to $28,000, the amount of assistance available for individuals eligible for SAH grants under section 2101(a), and would increase the amount from $2,000 to $5,000 for individuals eligible for SAH grants under section 2101(b). Subsection (b) would eliminate the December 31, 2011, termination date currently in effect, and make such assistance permanent. Subsection (c) would tie the newly increased amounts to the same cost-of-construction index as that authorized for grants made pursuant

to sections 2101(a) and 2101(b), meaning that the grants would adjust upwards with the costs of inflation.

We note that both this section and sections 303 and 304 of S. 1148 would make similar improvements to section 2102A. The relevant sections of S. 1148 would extend the authority of assistance for individuals residing temporarily in housing owned by a family member through 2021 and would implement a cost-of-construction index. These provisions are substantively the same as sections 306 and 307 of VA's draft bill, the "Veterans Benefits Programs Improvement Act of 2011." VA supports both of these provisions.

Section 3 would amend 38 U.S.C. 2101(b) to expand SAH eligibility for the visually impaired. Under current law, an individual is not eligible for what is commonly called a "2101(b) grant" unless his or her visual acuity is 5/200 or less, an exceptionally stringent standard in comparison to other areas of law. Many grant applicants who are considered legally blind by other commonly-held standards are ineligible for 2101(b) grants because their visual impairments, though profound, are not severe enough to meet the standard set under current law. For example, under the Social Security Administration's eligibility standards for supplemental security income (SSI), individuals are considered legally blind with visual acuity of 20/200 or less, or a peripheral field of vision of 20 degrees or less. Additionally, VA's Servicemembers' Group Life Insurance Traumatic Injury Protection Program's eligibility standard related to visual acuity is "20/200 or less." However, since the standard for "blindness" for the 2101(b) grant is "5/200 visual acuity or less," a Veteran or Servicemember who is legally blind for purposes of SSI or VA life insurance would not be eligible for a 2101(b) grant.

By establishing a qualifying degree of blindness at visual acuity of 20/200 best-corrected visual acuity or less, or as a field of vision subtending an angle of 20 degrees or less, the bill would bring the SAH requirements in line with more commonly recognized standards. It would also make the 2101(b) grant available to a wider range of Veterans and Servicemembers, including those who use rehabilitative low-vision adaptive medical devices.

Section 4 of S. 1017 would no longer count grants authorized under 38 U.S.C. 2102A (commonly referred to as "TRA grants") against the aggregate dollar amount of SAH assistance available to eligible individuals. Under current law, an eligible individual may receive up to three grants of SAH assistance totaling in aggregate not more than $63,780 for a 2101(a) grant or $12,756 in the case of a 2101(b) grant. If an individual receives a TRA grant, the amount is subtracted from the total amount of assistance available, leaving him or her with fewer funds for future adaptations to a permanent residence.

If section 4 were enacted, a veteran who had previously adapted a family member's residence using a TRA grant would be able to adapt his or her own permanent residence as if the TRA grant funds had not been used. Although the TRA grant would still count as one of the three allowable uses, it would not reduce the amount of assistance available for a grant authorized under section 2101(a) or 2101(b).

VA estimates benefits costs of enactment to be $3.4 million in the first year, $13.0 million over five years, and $20.6 million over ten years. VA does not identify any increase in General Operating Expense (GOE) cost associated with these provisions.

S. 1060 "HONORING ALL VETERANS ACT OF 2011"

Section 202

Section 202 would dramatically change VA's Grant and Per Diem (GPD) program, which has been a key factor in reducing Veteran homelessness. The GPD Program is designed to support transitional housing for Veterans. VA generally supports the spirit of the section, but is apprehensive that this legislation will result in policy problems and lead to significantly higher costs.

Currently, payments to eligible programs receiving grants to provide services to homeless Veterans are made on a per diem basis. Section 202(a)(2)(A) would eliminate all references to "per diem" in 38 U.S.C. 2012 and change the basis of grants from the "daily cost of care" to the "annual cost of furnishing services." It would also remove the prohibition on VA providing a rate in excess of the rate authorized for State domiciliaries and grant the Secretary the discretion to set a maximum amount payable to grant recipients.

Section 202(a)(2)(B) would direct the Secretary to adjust the rate of payment to reflect anticipated changes in the cost of furnishing services and take into account the cost of services in different geographic areas. Section 202(a)(2)(C) would remove the requirement that the Secretary consider other available sources of funding and would leave it to his or her discretion. Section 202(a)(2)(E) would require the Secretary to make quarterly payments based on the estimated annual basis and would require recipients to declare the actual amount paid by quarter for services and repay any outstanding balances if the amount spent by the recipient is less than the estimated quarterly disbursement. Similarly, if recipients spend more than the estimated amount, determined on a quarterly basis, the Secretary would be required to make an additional payment equal to that sum. It would limit payment to recipients to the amount of the annual payment as determined by the Secretary. Section 202(a)(3) would allow grant recipients to use VA grants to match other payments or grants from other providers. Finally, section 202(a)(4) would repeal a "grandfather" provision extending the time period for certain grantees to satisfy applicable requirements of the Life Safety Code of the National Fire Protection Association, as this provision expired in December 2006.

Although VA is not opposed to the concept of making its per diem authorities more flexible to better reflect the actual cost of providing services, especially in different geographic regions, VA is currently evaluating the impact of shifting from the "per diem" or "daily cost of care" approach to an "annual cost of furnishing services" paid and reconciled on a quarterly basis. Though this change may offer VA's partners needed capital and funds at the beginning of the fiscal year to support their work, it would require significantly more detailed auditing as well as increased direct oversight by VA. Furthermore, the requirement in section 202(a)(2)(E), to reconcile payments each quarter, would allow more immediate ac-

counting of unpaid balances and/or over-billings; however, this approach would impose significant administrative burdens, requiring VA to monitor and process GPD provider accounts nationwide. VA would welcome the opportunity to discuss these issues with Congress but asks that section 202 be deferred until VA can fully evaluate its impact.

VA does not oppose removing the existing rate cap pursuant to section 202(a)(2)(B). Currently, the statute limits VA's GPD per diem payments to the rate for state domiciliary care. The difference between what VA pays and the actual cost of expenditures is absorbed by the provider. Allowing the Secretary to establish the basis and the formula for payment based on cost and geographic location would increase the sustainability of community-based providers and promote increased and more comprehensive services for Veterans.

Although section 202 would no longer require the Secretary to consider the availability of other sources of income for grant recipients, the Secretary would in all likelihood consider the availability of other funds when evaluating a grant application. GPD Program Office experience has shown that the availability of other sources of income is often an indicator of a viable GPD project.

VA supports the authorization in section 202(a)(2)(D) for VA operational payments to be used in conjunction with grants from other federal programs. The purpose of the payment contained in 38 U.S.C. 2012 is to pay for operational costs for a specific program operation.

VA estimates the cost of this section to be $450.0 million in the first year, $2.8 billion over 5 years and $6.9 billion over 10 years.

Section 305

Section 305 would authorize VA to disclose information about Veterans and their dependents to State prescription monitoring programs to the extent necessary to prevent misuse and diversion of prescription medications. VA supports section 305 of this bill. It would enhance the ability of VA clinicians to provide treatment to VA beneficiaries by improving the visibility of both VA and non-VA prescriptions for controlled substance medications. VA estimates the cost associated with implementing this section would be $361,501 in FY 2012, $1.3 million over 5 years, and $2.4 million over 10 years.

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S. 1127 CENTERS OF EXCELLENCE FOR RURAL HEALTH RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

Section 2(a) of S. 1127 would require the Secretary to establish and operate at least one and not more than five centers of excellence for rural health research, education, and clinical activities through the Director of the Office of Rural Health. These centers would be geographically dispersed and would be established to: 1) conduct research on the furnishing of health services in rural areas; 2) develop specific models to be used by the Department in furnishing health services to Veterans in rural areas; 3) provide education and training for health care professionals of the Depart-

ment on the furnishing of health services to Veterans in rural areas; and 4) develop and implement innovative clinical activities and systems of care for the Department for the furnishing of health services to Veterans in rural areas. The activities of clinical and scientific investigation at each center would receive priority in the award of VA funds for medical and prosthetics research to the extent that these funds are awarded to projects for research in the care of rural Veterans. Section 2(c) would also recognize that there are Veterans rural health resource centers which serve as satellite offices of the Office of Rural Health.

VA supports section 2(c), but opposes section 2(a). The Office of Rural Health (ORH) currently supports rural program resource centers and implements research initiatives that are largely duplicative of the activities proposed for the Centers of Excellence. Specifically, ORH currently funds three Veterans Rural Health Resource Centers (VRHRC). These Centers function as field-based clinical laboratories for demonstration projects. A number of these projects are focused on developing models of care, as well as the implementation of innovative clinical practices and systems of care. VRHRC staff members also serve as rural health experts for the field. They provide training and education to VA and non-VA service providers caring for rural Veterans. ORH also supports VISN Rural Consultants (VRCs). In each VISN, there is a VRC who serves as the primary interface between ORH and VISN rural activities. The VRCs work closely with internal and external stakeholders to introduce, implement, and evaluate ORH-funded projects. The VRCs are also instrumental in conducting outreach to develop strong partnerships with community members, state agencies, rural health providers, and special interest groups. Since being established, ORH has funded well over 500 projects across the VA health care system. These projects cover a wide range of areas, including education, home based primary care, long-term care, mental health, case management, telehealth, primary care, and specialty care.

ORH is funded by Medical Services appropriations, which cannot be used to conduct research. Rather ORH supports demonstration and pilot projects. ORH has established partnerships within VA, namely VA Health Services Research & Development (HSR&D), to conduct relevant rural health research.

ORH has already committed considerable resources to implementing and evaluating models of care in rural areas, developing and providing education to rural providers, and developing innovative clinical activities and systems of care. Although ORH does not conduct research, collaborations with HSR&D have allowed for ORH to be involved in rural health research activities. Furthermore, HSR&D currently has a very extensive rural health portfolio including studies on access, health disparities, and developing new models of care appropriate for rural areas. The research findings are then shared with ORH and are used to form rural health policies and programs. Funding the proposed Centers of Excellence would be duplicative of activities that are already being addressed.

If this bill provision is passed, it would be more cost effective to add this function in our existing VRHRCs rather than to establish three new Centers of Excellence.

VA estimates the cost of adding a research component to each of the three existing VRHRCs to be $3 million dollars per year. However, VA estimates the cost of establishing three new independent and separate Centers of Excellence to be $7.5 million dollars per year.

S. 1148 "VETERANS PROGRAMS IMPROVEMENT ACT OF 2011"

TITLE I—HOMELESS VETERANS MATTERS

Section 101

Section 101(a) would amend 38 U.S.C. 2011(a) by expanding the kinds of projects for which grants are available to include the new construction of facilities. Section 101(a)(3)(A) would also amend section 2011(c) to prohibit the Secretary from denying a grant application based only on the fact that an entity proposes to use funding from other private or public sources, as long as a private nonprofit organization will provide oversight and site control for the project. Section 101(a)(3)(B) would also define the term private non-profit organization to include a for profit limited partnership or limited liability corporation whose managing or general partner is a nonprofit as defined under this section.

Section 101(b) would also require the Secretary to conduct a study of the method used to make per diem payments under 38 U.S.C. 2012 and develop an improved method for reimbursing grants under section 2011. The Secretary would be required to submit a report of the findings within a year after enactment of this bill.

Last, section 101(c) would amend 38 U.S.C. 2013 to increase the amount authorized to be appropriated to $250,000,000 for FY 2012 and each fiscal year thereafter.

VA does not support the provisions of section 101(a)(3)(B) and has concerns about section 101(c), but supports section 101(b). Section 101(a)(3)(B) would amend the definition of private nonprofit organization, to include a private nonprofit organization "that has received, or has temporary clearance to receive, tax-exempt status under * * * section 501(c) of the Internal Revenue Code of 1986 * * *" as well as allow additional entities to become eligible for grants under the Grant and Per Diem (GPD) Program.

VA believes that the "temporary clearance" proposed in this subsection does not adequately ensure the capability of the grant applicant to administer federal funds. This change would void the reason for the final determination by the Internal Revenue Service (IRS) as to organizational suitability for nonprofit status, increasing the risk that unsuitable grant applicants would apply for GPD projects. Furthermore, the "temporary clearance" provision is not needed because the IRS can expedite applications for tax-exempt status.

Additionally, VA does not believe section 501(c)(2) entities should be included in the definition of a private nonprofit organization. In general, section 501(c)(2) provides a tax-free means of managing and protecting real estate and other assets. Inclusion of a section 501(c)(2) organization in the definition of a "nonprofit organization" does not seem necessary.

VA also finds the inclusion of sections 101(a)(3)(B)(ii) and 101(a)(3)(B)(iii) unnecessary and potentially burdensome. Under the present statute, 38 U.S.C. 2011, eligible applicants include nonprofit organizations, state or local government agencies, or Indian tribal governments. Additionally, IRS rules allow under the definition of organization, limited liability corporations to apply for section 501(c)(3) status. Consequently there is no need to specifically include limited liability companies in the statutory definition of a "nonprofit organization."

VA has no objection to the section 101(b)'s requirement to conduct a study and develop a payment method under 38 U.S.C. 2011 and 2012; however, VA proposes that Congress grant VA more than one year to conduct the study and provide the report to Congress. Based on past program office experience, it is generally not feasible to analyze findings, implement changes, draft findings, and report to Congress within one year after the date of the enactment. VA estimates the study proposed in section 101(b) would cost approximately $300,000.

VA supports in principle raising the authorized appropriation amounts in section 101(c) but has concerns about the proposed annual appropriation level. VA estimates that the proposed maximum annual authorization level of $250 million would be inadequate for this important program after fiscal year 2015. We recommend that a specific authorization funding level be dropped from the statute.

VA estimates that there would be no additional costs associated with this provision as the budget through FY 2013 includes the program.

Section 102

Section 102 would amend 38 U.S.C. 2061 by expanding eligibility for the grant program to entities eligible for grants and per diem payments under sections 2011 and 2012 of title 38. It would also broaden the definition of homeless Veterans with special needs to include any Veteran who cares for minor dependents, not just women. Last, this section would allow recipients of grants under section 2061 to use grant amounts to provide services directly to a dependent of a homeless Veteran if the Veteran is receiving services from the recipient.

In principle, VA supports section 102 and agrees that modifications are needed to fully realize the potential of special needs grants through the GPD Program. Specifically, VA has no objection to the inclusion of subparts (a), (b), and (c) in section 102. However, VA believes the modifications as written are insufficient to adequately meet the needs of the special needs population presently served by the GPD Program.

VA respectfully suggests that the Committee consider the language in sections 303 to 305 of VA's draft bill, the "Veterans Health Care Act of 2011," which was transmitted to Congress on June 7, 2011, relating to GPD special needs grants. These provisions would amend 38 U.S.C. 2061 and also create a new section for establishment of per diem programs for homeless Veterans with special needs. VA considers the language in Title III, sections 303–305 of VA's draft bill an effective way to meet the needs of the special needs population served by GPD Program grants.

We will provide costs associated with implementing this section as soon as they are available. If section 102 is amended to contain the proposed special needs amendments in sections 303 through 305 of VA's draft bill, the costs would be $15.2 million in FY 2012, $79.9 million over 5 years, and $217.7 million over 10 years.

Section 103

Section 103 would amend 38 U.S.C. 2031(a) by authorizing VA to provide services listed in section 2031 to homeless Veterans, regardless of whether such Veterans suffer from serious mental illness (SMI). VA fully supports the draft bill language in section 103. In the drive to end homelessness among Veterans, VA recognizes the need to provide homeless Veterans with emergency housing, case management services, and outreach services. Consequently, VA fully supports removing the requirement in 38 U.S.C. 2031 that a Veteran must have a co-occurring SMI before receiving Health Care for Homeless Veterans (HCHV) program services.

While co-occurring disorders such as SMI have traditionally been the markers of homelessness among Veterans and have been well documented in relevant research, conditioning the provision of services on the existence of SMI unnecessarily limits the scope of services to thoroughly address the condition of homelessness.

HCHV program field experience has shown that there are many Veterans who are homeless for reasons other than mental health-related issues. Therefore, expanding the scope of 38 U.S.C. 2031 would allow VA to better reach and serve Homeless Veterans.

VA estimates the cost of this section to be $3.5 million in the first year, $19.1 million over 5 years and $42.1 million over 10 years.

Section 104

Section 104 of S. 1148 would require VA to submit to Congress a comprehensive plan to end homelessness among Veterans. VA does not support this provision because VA has already formulated and is presently implementing a comprehensive strategic plan to end Veteran homelessness. VA's Plan to End Homelessness Among Veterans Initiative is built upon six strategies: Outreach/Education, Treatment, Prevention, Housing/Supportive Services, Income/Employment/Benefits and Community Partnerships. These six strategies encompass a wide continuum of interventions and services to prevent and end homelessness among Veterans. Homeless Veterans will benefit from the expansion of existing program capacity and treatment services, as well as the implementation of new programs focused on homelessness prevention and increased access to permanent housing with supportive services. Although the provision of safe housing is fundamental, programming will include mental health stabilization, substance use disorder treatment services, enhancement of independent living skills; vocational and employment services, and assistance with permanent housing searches and placement. VA does not anticipate any additional costs associated with implementing section 104.

Section 105

VA fully supports section 105(a) that would extend authority for the Health Care for Homeless Veterans (HCHV) Program through December 31, 2014. The HCHV Program, as authorized by 38 U.S.C. 2031, allows VA to provision care and services to homeless Veterans suffering from serious mental illness (SMI). Specifically, the HCHV Program provides emergency housing, outreach services, and case management services. This authority has been extended several times since November 21, 1997. The most recent extension of this authority was from December 31, 2006 through December 31, 2011.

As an essential component of VA's Plan to End Homelessness Among Veterans, VA fully supports any effort to extend this important authority.

VA also supports section 105(b) that would amend 38 U.S.C. 2033 to extend by an additional three years until December 31, 2014, VA's authority to expand and improve benefits to homeless Veterans. Section 2033 authorizes VA, subject to appropriations, to operate a program to expand and improve the provision of benefits and services to homeless Veterans. The program includes establishing sites under VA jurisdiction to be centers for the provision of comprehensive services to homeless Veterans (also known as Community Resource and Referral Centers (CRRCs)). This authority has been extended several times since November 21, 1997. The most recent extension of this authority was from December 31, 2006 through December 31, 2011. CRRCs are an important component of VA's Plan to End Homelessness Among Veterans, and VA fully supports any effort to extend this authority.

VA estimates there would be no additional costs associated with these provisions.

Subsection (c) of section 105 would extend through December 31, 2014, the Secretary's authority to enter into agreements with nonprofit organizations for the purpose of selling, leasing, or donating homes acquired through the guaranteed loan program. VA supports this provision. Under current law, 38 U.S.C. 2041, this authority is set to expire on December 31, 2011. The proposed extension would allow VA to continue using homes acquired through the guaranteed loan program to help provide shelter to homeless Veterans.

VA estimates that enactment of section 105(c) will result in no additional costs.

Section 105(d) would amend 38 U.S.C. 2066 to extend Congressional authority to continue the Advisory Committee for Homeless Veterans for an additional two years until December 30, 2013. This Committee was Congressionally-mandated by Public Law 107–95. The mission of the Committee is to provide advice and make recommendations to the Secretary on issues affecting homeless Veterans and determine if VA and other programs and services are meeting the needs of homeless Veterans. VA has implemented many of the Committee's recommendations through policy and regulatory changes to enhance access and services for homeless Veterans.

The costs associated with the Advisory Committee were $114,000 in FY 2010 and we estimate an increase in 3 to 5 percent in the

additional two years of operation for hotel room, air travel, and meeting space.

Section 106

VA supports section 106 which would re-authorize appropriations for the Department of Labor's (DOL) Homeless Veterans Reintegration Program (HVRP) for fiscal years 2012 and 2013. HVRP is a grant program intended to assist homeless Veterans rejoin the workforce. Grantees provide homeless Veterans with job training and employment placement assistance, as well as related supportive services such as transitional housing, transportation and referral to treatment services. In Fiscal Year 2011, DOL used HVRP funds to restart its Incarcerated Veterans Transition Program (IVTP), under which grantees provide HVRP services to Veterans reentering their communities from prison or jail. HVRP grantees conduct regular outreach to identify homeless Veterans, and often refer them to VA for health care. Veterans ineligible for services from the Veterans Health Administration may often be able to access needed services through HVRP. The HVRP program, especially the IVTP component, is therefore an extremely valuable, complementary resource for VHA Justice Program's staff. Reauthorization will contribute to achieving VA's Plan to End Homelessness Among Veterans.

Reauthorization would be cost-neutral for VA. VHA Justice Programs staff coordinate with HVRP grantees and serve the Veterans they refer to VA, but these staff are funded under separate authority.

Section 107

Section 107 would amend 38 U.S.C. 2044(e) to extend VA's authority to provide financial assistance to entities approved to provide and coordinate the provision of supportive services for very low-income Veteran families occupying permanent housing to fiscal year 2012. Section 107 would also make available $100 million from the amounts appropriated to the Department of Medical Services to carry out section 2044. Last, this provision makes a technical amendment to correct a grammatical error in subsection 2044(e).

Although VA fully supports the reauthorization of appropriations for the Supportive Services for Veteran Families (SSVF) Program under section 107, VA respectfully suggests that the Committee consider the language in section 306 of VA's draft bill, the "Veterans Health Care Act of 2011," which was transmitted to Congress on June 7, 2011. Section 306 would extend Congressional authority to continue the SSVF Program permanently. Additionally, beginning in fiscal year 2014, VA would be authorized to fund the program with the amounts deemed necessary. This modification would give VA maximum flexibility to redirect resources to prevention efforts as the VA's Plan to End Homelessness Among Veterans reduces the overall number of homeless Veterans.

The current statute authorizes funding for the SSVF Program through the end of fiscal year 2011. However, at the current level of funding, VA can only provide approximately 85 grants nation-

wide, leaving significant areas of the country, both urban and rural, without services.

The SSVF Program is the only VA homeless program that is national in scope that can provide direct services to both Veterans and their family members. Recent Community Homelessness Assessment, Local Education and Networking Groups (CHALENG) reports indicate that homeless and formerly homeless Veterans consider family concerns as their highest unmet need. Additionally, homeless prevention is one of the key strategies in eliminating Veteran homelessness. Currently, approximately 1.3 million Veterans live in poverty. Estimates from the 2009 Annual Homelessness Assessment Report (AHAR) indicate that ten percent of all Veterans in poverty will become homeless at some point during the year. Prevention services are critical to reducing this incidence of homelessness. Continued authorization of the SSVF Program would allow VA to serve over 20,000 Veteran families in FY 2012. As the SSVF Program is one of the cornerstones of VA's Plan to End Homelessness Among Veterans and the Federal Strategic Plan to Prevent and End All Homelessness, its reauthorization at levels that allow for national access is critical to the success of both efforts.

The cost of the SSVF program is contained in the current VHA Homeless Veteran program budgets so there are no additional cost associated with this section.

Section 108

Pursuant to 38 U.S.C. 2061, VA makes grants for homeless Veterans with special needs to VA health care facilities and GPD providers. The "grants" to GPD providers are in the form of supplemental per diem payments for additional operating expenses not covered by per diem payments under the GPD program. The section 2061 grant authority expires on September 30, 2011.

Section 108 which would amend 38 U.S.C. 2061 to extend by an additional 2 years, until December 31, 2013, VA's authority to offer grants to health care facilities and grant and per diem providers for the development of programs for homeless Veterans with special needs. Veterans with special needs are those who are: women, including women who have care of minor dependents; frail, elderly; terminally ill; or chronically mentally ill.

VA supports section 108, however respectfully requests that the Committee consider adopting the language found in section 303 of VA's draft bill, the "Veterans Health Care Act of 2011," which was transmitted to Congress on June 7, 2011, which would grant permanent authority to offer capital grants for homeless Veterans with special needs.

VA estimates the costs associated with this section to be $5 million for the first fiscal year and $10 million over two years.

TITLE III—OTHER ADMINISTRATIVE AND BENEFITS MATTERS

Section 301

Section 301 would amend 38 U.S.C. 3704(c) to allow a Veteran's dependent child to satisfy the occupancy requirements of VA home loans. Currently, only a Veteran or a Veteran's spouse may satisfy

the requirement, which means that a single parent on active duty may be prevented from obtaining a VA-guaranteed loan. The proposed change would make it easier for those serving in the Armed Forces to use their VA home loan benefits.

VA supports section 301, noting it is identical to section 3 of S. 874 and substantively the same as section 301 of VA's draft bill, the "Veterans Benefits Programs Improvement Act of 2011," which was transmitted to Congress on May 19, 2011.

VA estimates that enactment of this provision would result in additional loan subsidy costs of $370 thousand the first year, $3.9 million over the first five years and $10.8 million over ten years.

Section 302

Section 302 would amend 38 U.S.C. 3729(c) to allow an individual to receive a fee waiver if, during a pre-discharge program, he or she receives a disability rating for purposes of VA compensation based on existing medical evidence, such as service medical and treatment records. VA supports this provision, noting that it is substantively the same as section 304 of VA's draft bill, the "Veterans Benefits programs Improvement Act of 2011," which was transmitted to Congress on May 19, 2011. Under current law, the loan fee may be waived if the Veteran receives a pre-discharge rating based on a VA examination and rating. This provision would extend the waiver to individuals rated eligible for VA compensation based on existing evidence.

VA estimates that there would be no additional costs associated with implementing section 302.

Section 303

Section 303 would amend 38 U.S.C. 2102A(e) by extending, through December 31, 2021, the Secretary's authority to provide Specially Adapted Housing assistance to eligible individuals residing temporarily with family members. VA supports this provision, noting that it is substantively the same as section 306 of VA's draft bill, the "Veterans Benefits Programs Improvement Act of 2011." Under current law, the authority is set to expire on December 31, 2011.

VA estimates that there would be no additional costs associated with implementing section 303.

Section 304

Section 304 would amend 38 U.S.C. 2102A(b) to provide that amounts of assistance payable under that section to certain individuals who reside temporarily in housing owed by family members be adjusted on an annual basis based on a cost-of-construction index already in effect for other Specially Adapted Housing grants authorized under chapter 21 of title 38, United States Code. The proposal is substantively the same as section 307 of VA's draft bill, the "Veterans Benefits Programs Improvement Act of 2011." VA supports this provision to ensure that seriously disabled Veterans temporarily living with family members may have continued access to residences that suit the Veterans' day to day needs.

VA estimates that there would be no additional costs associated with implementing section 304.

Section 305

Section 305 of S. 1148 would extend eligibility for Presidential memorial certificates to the survivors of any Servicemember who died in active military, naval or air service. An alternate version of this provision was introduced in S. 874, and section 305 is identical to a provision the Secretary proposed on May 19, 2011. VA strongly supports enactment of this provision.

Under current law, eligibility for a Presidential memorial certificate is limited to survivors of Veterans who were discharged under honorable conditions. Under the statutory definition of "Veteran" generally applicable to title 38, United States Code, an individual who died in active service, including an individual killed in action, technically is not a "Veteran" because the individual was not "discharged or released" from service. Therefore, under current law, the survivors of such an individual are not eligible for a Presidential memorial certificate to honor the memory of the individual. Section 305 would authorize VA to provide a Presidential memorial certificate to the next of kin, relatives, or friends of such individuals, who have made the supreme sacrifice for our country, and express our country's grateful recognition of the individual's service in the Armed Forces. We estimate that this eligibility expansion would result in discretionary costs of $8,924 the first year, $44,436 over five years, and $88,416 over ten years.

Section 306

Section 306 would amend 38 U.S.C. 7105 to incorporate an automatic waiver of the right to initial consideration of certain evidence by the agency of original jurisdiction (AOJ). The evidence that would be subject to the waiver is evidence that the claimant or his or her representative submits to VA concurrently with or after filing the substantive appeal. Such evidence would be subject to initial consideration by the Board of Veterans' Appeals unless the appellant or his or her representative requests in writing that the AOJ initially consider the evidence. Such request would be required to be submitted with the evidence. The amendment made under this provision would become effective 180 days after enactment of this provision. Section 306 is very similar to section 204 of VA's draft bill, the "Veterans Benefits Programs Improvement Act of 2011," which was transmitted to Congress on May 19, 2011. VA strongly supports its enactment.

Current law precludes the Board's initial consideration of evidence submitted in connection with a claim, unless the claimant waives the right to initial consideration by the AOJ. Evidence must first be considered by the AOJ in order to preserve a claimant's statutory right under 38 U.S.C. 7104 to one review on appeal, which the Board provides on behalf of the Secretary. The requirement that the AOJ initially consider all evidence, unless the claimant waives the right, frequently delays the final adjudication of claims because claimants often submit additional evidence after perfecting their appeals to the Board by filing a substantive appeal. Under current procedures, each time a claimant, after filing a substantive appeal, submits more evidence without waiving the right to initial AOJ consideration, the AOJ must review the evidence submitted and issue a supplemental statement of the case that ad-

dresses it. If a claimant submits relevant evidence to the Board without waiving the right to initial AOJ consideration, the Board must remand the claim to the AOJ for initial consideration and preparation of a supplemental statement of the case. The effect of the bill would not be to deprive claimants of the right to initial consideration by the AOJ. It would permit claimants to obtain initial consideration by the AOJ by requesting such review in writing.

The establishment of an automatic waiver would necessarily improve the timeliness of processing appeals as a whole. Because the Board bases its decisions on a de novo review of all the evidence of record, many more appeals could be more quickly transferred to the Board following the receipt of a substantive appeal. AOJs would spend less time responding to appellants who submit additional evidence following the filing of a substantive appeal, and the Board would avoid time-consuming remands in cases when the appellant submits evidence directly to the Board. By presuming a waiver of AOJ review of new evidence, the Board would be able to adjudicate claims without the delay of a remand, thereby getting final decisions to Veterans more quickly and reducing the increased appellate workload caused by the reworking of remanded claims.

We anticipate that enactment of section 306 would have no measurable monetary costs or savings. The potential benefits that would result from enactment of the proposal include expedited adjudication of claims on appeal and a reduction in the time spent processing appeals, both at AOJs and the Board, allowing more time for deciding new claims.

Section 307

Section 307 would permit VA to continue to use income information from other agencies in making certain benefits determinations by extending the sunset provision for using income data from the Internal Revenue Service (IRS) and the Social Security Administration (SSA) from September 30, 2011, to September 30, 2016, and extending the sunset provision for using income data from the U.S. Department of Health and Human Services (HHS) from September 30, 2011, to September 30, 2021. VA supports this provision, noting that it is substantively the same as sections 502 and 503 of VA's draft bill, the "Veterans Benefits Programs Improvement Act of 2011." VA estimates that enactment of section 307 would result in a net savings of $159 million over 5 years with respect to the IRS/SSA extension and a net savings of $13 million over 10 years with respect to the HHS extension.

Section 308

Section 308 would permit the VA Regional Office in Manila, Philippines, to maintain its operations until December 31, 2012. Section 504 of VA's draft bill, the "Veterans Benefits Programs Improvement Act of 2011," which was transmitted to Congress on May 19, 2011, proposed extending to December 31, 2016, the authority to maintain a regional office in the Philippines. Although section 308 would provide a shorter extension, VA nevertheless supports enactment. It is more cost effective to maintain the facility in Manila than it would be to transfer its functions and hire equivalent numbers of employees to perform those functions on the

U.S. mainland. In addition, VA's presence in Manila significantly enhances the ability to manage potential fraud. For these reasons, there is no increased cost associated with this provision.

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On June 8, 2011, John McWilliam, Deputy Assistant Secretary, Veterans' Employment and Training Service, Department of Labor, appeared before the Committee and submitted testimony on S. 1060, among other issues. Excerpts from this statement are reprinted below:

STATEMENT OF JOHN MCWILLIAM, DEPUTY ASSISTANT SECRETARY, VETERANS' EMPLOYMENT AND TRAINING SERVICE, U.S. DEPARTMENT OF LABOR

Chairman Murray, Ranking Member Burr, and distinguished Members of the Committee, I am pleased to appear before you today to discuss legislation pending in this Committee aimed at helping our returning Servicemembers transition back to civilian life.

The Veterans' Employment and Training Service (VETS) proudly serves Veterans and transitioning Servicemembers by providing resources and expertise to assist and prepare them to obtain meaningful careers, maximize their employment opportunities and protect their employment rights.

Secretary Solis has been an incredible source of guidance and support, and has made Veterans and VETS one of her top priorities. Our programs are an integral part of Secretary Solis's vision of "Good Jobs for Everyone" and her unwavering commitment to help Veterans and their families get into the middle class and maintain stability. We strive to achieve this vision through four main programs:

- Jobs for Veterans State Grants;
- Transition Assistance Program Employment Workshops;
- Homeless Veterans' Reintegration Programs; and
- Uniformed Services Employment and Reemployment Rights Act.

Your letter of invitation seeks input on a significant number of bills at this hearing, and you ask VETS to specifically provide input on S. 951, the "Hiring Heroes Act of 2011." We have done so in subsequent portions of this testimony, in addition to providing comments on the proposed "Honoring All Veterans Act of 2011," which would require the Department of Labor (DOL), through the Assistant Secretary of the Office of Disability Employment Policy (ODEP), to initiate a program providing technical assistance to employers of Veterans who have a Traumatic Brain Injury or Post Traumatic Stress Disorder.

As the remaining pieces of proposed legislation being addressed at this hearing fall under the purview of other departments, VETS defers to those departments and I will restrict my testimony to the appropriate sections of S. 951, and the "Honoring All Veterans Act of 2011" that have a direct impact on DOL and the Veterans' Employment and Training Service.

In addition to the invitation for today's hearing, VETS has received a follow-up request to comment on Senator Casey's proposed "Veteran Transition Assistance Program Audit Act of 2011." Due to time constraints, VETS was unable to conduct a thorough review in time for today's hearing, but we look forward to providing our comments for the record and continuing to work with Senator

Casey and this entire Committee to ensure that our Servicemembers receive the best assistance possible as they transition back to civilian life.

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DRAFT BILL: "HONORING ALL VETERANS ACT OF 2011"

The stated purpose of this bill is to: "improve education, employment, independent living services, and health care for veterans, to improve assistance for homeless veterans, and to improve the administration of the Department of Veterans Affairs, and for other purposes." Accordingly, we defer to VA and DOD for most of the sections of the bill.

Section 105: This section would require the Secretary of Labor, through the Assistant Secretary for the Office of Disability Employment Policy, to initiate a program to provide technical assistance to prospective employers, employers of covered Veterans and entities in the workforce system to assist Veterans who have Traumatic Brain Injury or Post Traumatic Stress Disorder in the area of employment.

DOL believes that this section is unnecessary. ODEP, in cooperation with VETS, created the America's Heroes at Work (AHAW) program in 2008 to fulfill this need. We are currently in the process of transitioning the leadership and funding for this program to our office, and propose to work with the Committee to determine if AHAW needs further enhancements.

CONCLUSION

We are reminded everyday of the tremendous sacrifices made by our Veterans, Servicemembers and their families. Secretary Solis and the Veterans' Employment and Training Service believe that America must honor those sacrifices by providing the Nation's bravest with the best possible programs and services that we have to offer. We look forward to continuing our work with this Committee to do just that.

I again thank this Committee for your commitment to our Nation's Veterans and for the opportunity to testify before you. We would be happy to work with your staffs to provide technical assistance on any of these or future bills, and I would be happy to respond to any questions.

On June 8, 2011, the Department of Defense, submitted testimony on various bills incorporated into the Committee bill. Excerpts from this statement are reprinted below:

STATEMENT OF THE U.S. DEPARTMENT OF DEFENSE

Chairman Murray, Ranking Member Burr, and Members of this distinguished Committee thank you for extending the invitation to the Department of Defense to address pending legislation that would significantly affect our Servicemembers: S. 277, the proposed "Caring for Camp Lejeune Veterans Act of 2011;" S. 486, the proposed "Protecting Servicemembers from Mortgage Abuses Act of 2011;" S. 491, the proposed "Honor America's Guard-Reserve Retirees Act of 2011;" S. 698, the proposed bill to amend title 38, United States Code, to codify the prohibition against the reservation of gravesites at Arlington National Cemetery, and for other purposes; S. 951, the proposed "Hiring Heroes Act of 2011."

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The Department supports the proposed bill S. 486 as drafted, with one caveat: the mortgage protections of section 533 should only be extended to 12 months rather than to the proposed 24 months.

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The Department recommends modifying S. 698 according to details provided in this testimony.

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The Department defers to the VA on S. 1060. DOD does not have any specific concerns.

SUMMARY OF THE DEPARTMENT'S VIEWS ON PENDING LEGISLATION

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S. 486

The Department of Defense (DOD) supports the proposed bill S. 486 as drafted, with one caveat: the mortgage protections of section 533 should only be extended to 12 months rather than to the proposed 24 months.

Although DOD hesitates to recommend against any protection extended to Servicemembers, we believe that a three-month extension more fairly balances the equities of all parties, including the lending industry, and would help ensure that no backlash against the Servicemember—perhaps in the form of decreased credit opportunities—is ever considered.

An extension to 12 months would align the foreclosure protections of section 533 with the current 12-month interest rate cap of section 527 (for pre-service mortgage obligations). This would help reduce confusion over the current, unevenly-extended protections.

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S. 698

S. 698 would amend title 38, United States Code, to codify the prohibition against the reservation of gravesites at Arlington National Cemetery. As drafted, S. 698 would prohibit more than one gravesite per eligible veteran and would also prohibit gravesite reservations prior to the time of need with an exception for written "requests" for a reserved gravesite made prior to January 1, 1962 regardless of current eligibility requirements. Current Army regulations establish a "one-gravesite-per-family" policy. This rule has been in effect since 1961. One important element of Army policy is that the Army may allow exceptions to the "one-gravesite-per-family" policy when strict adherence to the policy is not feasible. This policy is set forth at 32 CFR § 553.18(a) and Army Regulation 290–5 § 2–5(a). S. 698, as drafted, does not, but in the Department's view should, provide the Secretary of the Army with the requisite authority to make an appropriately justified exception to the "one-gravesite-per-family" policy. The Department recommends modifying S. 698 accordingly.

Similarly, the Army currently prohibits reserving gravesites prior to time of need and does not honor gravesite reservations unless (1) the reservation was made in writing before the "one-gravesite-per-family" policy was established, (2) an eligible person was interred before the one-gravesite-per-family policy was established, and (3) the person holding the reservation for the adjacent gravesite is eligible for interment at Arlington National Cemetery under current Army eligibility rules. This policy is set forth at 32 CFR § 553.18 and Army Regulation 290–5 § 2–5. This exception to the prohibition on reservations is necessary because prior to the "one-gravesite-per-family" policy, individuals were not interred at depths that would accommodate two or three subsequent burials in the same gravesite like they are today.

As drafted, proposed section 2410A(b) in S. 698 reflects the Army's current policy prohibiting reservations. Section 1(c)(2) of S. 698, however, creates an exception to the prohibition on reservations for those who have a "written request for a reserved gravesite [that] was submitted to the Secretary of the Army before January 1, 1962." This exception would alter current Army policy by allowing reservations for those with only a reservation request rather than an approved reservation before 1962. The requirement for a valid reservation, not just a request, is necessary to implement S. 698. The Department has no objection to the reporting requirement contained in section 1(d) of S. 698.

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On June 8, 2011, Mercedes Marquez, Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, submitted testimony on S. 411. This statement is reprinted below:

STATEMENT OF MERCEDES MARQUEZ, ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

S. 411, HELPING OUR HOMELESS VETERANS ACT OF 2011

Chairman Murray, Ranking Member Burr, Distinguished Members of the Senate Committee on Veterans' Affairs, I am pleased to be able to submit this testimony on behalf of the U.S. Department of Housing and Urban Development (HUD) regarding S. 411, Helping our Homeless Veterans Act of 2011.

BACKGROUND

This bill proposes two amendments to U.S. Code Title 38: Inserting section 2045, allowing the VA to "enter into agreements with eligible entities to collaborate in the provision of case management services" as part of the HUD-VA Supportive Housing (HUD-VASH) program; and section 2046, which calls for "the distribution of rental vouchers to veterans in rural areas and underserved veterans in metropolitan areas or on Indian lands in each region of the United States."

HUD and the Administration share the goal of this legislation to better meet the needs of homeless veterans. One year ago this month, the President released Opening Doors: The Federal Strategic Plan to Prevent and End Homelessness, which calls for ending veteran homelessness by 2015, and includes strategies to help achieve the goal. HUD is working closely with the Department of Veterans Affairs to ensure our programs are coordinated to effectively and efficiently meet the needs of homeless veterans. One of the key successes, to date, is the HUD-VASH program. This program combines rental assistance provided by HUD with services and health care provided by VA. By jointly working to improve the program, the ability to more swiftly identify and house homeless veterans has been greatly enhanced.

GEOGRAPHIC DISTRIBUTION

S. 411 seeks to ensure that resources are provided to homeless veterans who reside in rural communities—some of whom may be in areas that are long distances from VA medical centers. The current allocation methodology uses relative need and performance to distribute vouchers, and provides vouchers to many rural areas that demonstrate relative need via data provided to HUD and VA. While HUD agrees that there should be geographic diversity in the distribution of vouchers, it should be noted HUD and VA data show that the most significant need remains in urban centers. On the other hand, the Administration is committed to addressing veterans' homelessness wherever it exists, and a more efficient way to

meet rural veterans' needs may be through HUD's Continuum of Care programs. As part of the Administration's funding request for the new Homeless Emergency and Rapid Transition to Housing (HEARTH) Act, HUD included in its FY 2012 budget funding to implement the Rural Housing Stability Assistance Program (RHSP). This would provide assistance in rural areas to individuals and families (including veterans) who are homeless, in imminent danger of losing housing, or in worst case housing situations. The HEARTH Act also authorizes the new Emergency Solutions Grant (ESG) program, which provides funding for homelessness prevention, shelter, and rapid re-housing services. HUD looks forward to working with the Committee and our Administration partners to determine the most effective ways of addressing homelessness among veterans in urban and rural areas.

CONTRACTING

One component of the bill that we believe could have a significant positive impact on assisting homeless veterans involves the provision of services through VA contracts with local non-profits and other agencies to provide case management and to connect to HUD housing resources. As demonstrated by the success of the HUD-VA—U.S. Interagency Council on Homelessness (USICH) Washington, DC. Pilot Initiative, contracting and collaborating with local providers can greatly enhance the provision of needed services in some communities. Through a joint effort between Washington, DC's Department of Human Services and the D.C. Housing Authority, the eligibility process was streamlined and as a result, vouchers were allocated at a substantially faster pace and clients with vouchers were quickly housed. These very positive, initial results from the first pilot suggest that this model should be looked at further in other communities that the Departments deem appropriate.

TARGETING

We have learned through our HUD-VASH efforts in recent years that a key to success in ending veteran homelessness is effective targeting. Therefore we have concerns about the potential impact of this bill on those targeting efforts. While the title of the bill indicates that the targeted population will be homeless veterans, the text of the bill in a number of cases uses the term "underserved veterans," suggesting that the program could be modified to serve more than veterans who are homeless. The current HUD-VASH assistance is designed to house the neediest veterans, many of whom are chronically homeless. We would argue in favor of keeping that targeting to this population as a priority at this time.

CASE MANAGEMENT

The bill includes a broad definition of case management services, which could complicate the efforts of HUD, the VA, and organizations that would be contracted to provide needed services to homeless veterans. For example, the bill includes activities such as rental assistance, legal assistance, and mental health or substance abuse counseling as part of case management. HUD looks forward

to working with the Committee and VA to clarify the definition of case management in the legislation in order to help improve coordination and efficiency, as well as oversight.

TRIBAL LANDS

HUD recognizes the need for improved housing and services for veterans on Tribal Lands, and we are eager to explore options for helping to achieve this goal. While persons living in tribal areas are individually eligible for HUD-VASH, under current law the tribal areas themselves are not eligible for any Housing Choice Voucher (HCV) program (including HUD-VASH), or for McKinney-Vento Act/homeless programs. However, it should be noted that the Native American Housing Assistance and Self-Determination Act (NAHASDA) authorizes assistance to Indian Tribes or their Tribally Designated Housing Entities (TDHE) through the Indian Housing Block Grant (IHBG). IHBG can be used to develop rental assistance programs similar to HCV. We believe it is important to take into account these mechanisms for providing services to veterans on Tribal Lands as part of the effort to consider what changes to the existing system make sense. And, again, we look forward to discussing these matters with Members of the Committee.

CONCLUSION

The HUD-VASH model has served as a vital tool for ending veteran homelessness, and HUD is encouraged that Senator Klobuchar and the Committee continue to seek ways to improve the program. HUD looks forward to working with the Committee to further discuss how the intent of the S. 411's provisions can best be realized.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, 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 italic, existing law in which no change is proposed is shown in roman).

Title 18. Crimes and Criminal Procedure

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Part I. Crimes

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Chapter 67. Military and Navy

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SEC. 1388. PROHIBITION ON DISRUPTIONS OF FUNERALS OF MEMBERS OR FORMER MEMBERS OF THE ARMED FORCES

[(a) PROHIBITION.—For any funeral of a member or former member of the Armed Forces that is not located at a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery, it shall be unlawful for any person to engage in an activity during the period beginning 60 minutes before and ending 60 minutes after such funeral, any part of which activity—

[(1) (A) takes place within the boundaries of the location of such funeral or takes place within 150 feet of the point of the intersection between—

[(i) the boundary of the location of such funeral; and

[(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and

[(B) includes any individual willfully making or assisting in the making of any noise or diversion that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral with the intent of disturbing the peace or good order of that funeral; or

[(2)(A) is within 300 feet of the boundary of the location of such funeral; and

[(B) includes any individual willfully and without proper authorization impeding the access to or egress from such location with the intent to impede the access to or egress from such location.

[(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

[(c) DEFINITIONS.—In this section:

[(1) The term "Armed Forces" has the meaning given the term in section 101 of title 10.

[(2) The term "funeral of a member or former member of the Armed Forces" means any ceremony or memorial service held in connection with the burial or cremation of a member or former member of the Armed Forces.

[(3) The term "boundary of the location", with respect to a funeral of a member or former member of the Armed Forces, means—

[(A) in the case of a funeral of a member or former member of the Armed Forces that is held at a cemetery, the property line of the cemetery;

[(B) in the case of a funeral of a member or former member of the Armed Forces that is held at a mortuary, the property line of the mortuary;

[(C) in the case of a funeral of a member or former member of the Armed Forces that is held at a house of worship, the property line of the house of worship; and

[(D) in the case of a funeral of a member or former member of the Armed Forces that is held at any other kind of location, the reasonable property line of that location.]

(a) PROHIBITION.—For any funeral of a member or former member of the Armed Forces that is not located at a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery, it shall be unlawful for any person to engage in an activity during the period beginning 120 minutes before and ending 120 minutes after such funeral, any part of which activity—

(1)(A) takes place within the boundaries of the location of such funeral or takes place within 300 feet of the point of the intersection between—

(i) the boundary of the location of such funeral; and

(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and

(B) includes any individual willfully making or assisting in the making of any noise or diversion—

(i) that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral; and

(ii) with the intent of disturbing the peace or good order of such funeral;

(2)(A) is within 500 feet of the boundary of the location of such funeral; and

(B) includes any individual—

(i) willfully and without proper authorization impeding or tending to impede the access to or egress from such location; and

(ii) with the intent to impede the access to or egress from such location; or

(3) is on or near the boundary of the residence, home, or domicile of any surviving member of the deceased person's immediate family and includes any individual willfully making or assisting in the making of any noise or diversion—

(A) that disturbs or tends to disturb the peace of the persons located at such location; and

(B) with the intent of disturbing such peace.

(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title or imprisoned for not more than 1 year, or both.

(c) CIVIL REMEDIES.—

(1) DISTRICT COURTS.—The district courts of the United States shall have jurisdiction—

(A) to prevent and restrain violations of this section; and

(B) for the adjudication of any claims for relief under this section.

(2) ATTORNEY GENERAL.—The Attorney General may institute proceedings under this section.

(3) CLAIMS.—Any person, including a surviving member of the deceased person's immediate family, who suffers injury as a result of conduct that violates this section may—

(A) sue therefor in any appropriate United States district court or in any court of competent jurisdiction; and

(B) recover damages as provided in subsection (d) and the cost of the suit, including reasonable attorneys' fees.

(4) ESTOPPEL.—A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by a person or by the United States.

(d) ACTUAL AND STATUTORY DAMAGES.—

(1) IN GENERAL.—In addition to any penalty imposed under subsection (b), a violator of this section is liable in an action under subsection (c) for actual or statutory damages as provided in this subsection.

(2) ACTIONS BY PRIVATE PERSONS.—A person bringing an action under subsection (c)(3) may elect, at any time before final judgment is rendered, to recover the actual damages suffered by him or her as a result of the violation or, instead of actual damages, an award of statutory damages for each violation involved in the action.

(3) ACTIONS BY ATTORNEY GENERAL.—In any action under subsection (c)(2), the Attorney General is entitled to recover an award of statutory damages for each violation involved in the action notwithstanding any recovery under subsection (c)(3).

(4) STATUTORY DAMAGES.—A court may award, as the court considers just, statutory damages in a sum of not less than $25,000 or more than $50,000 per violation.

(e) REBUTTABLE PRESUMPTION.—It shall be a rebuttable presumption that the violation was committed willfully for purposes of determining relief under this section if the violator, or a person acting in concert with the violator, did not have reasonable grounds to believe, either from the attention or publicity sought by the violator or other circumstance, that the conduct of such violator or person would not disturb or tend to disturb the peace or good order of such funeral, impede or tend to impede the access to or egress from such funeral, or disturb or tend to disturb the peace of any surviving member of the deceased person's immediate family who may be

found on or near the residence, home, or domicile of the deceased person's immediate family on the date of the service or ceremony.

(f) DEFINITIONS.—In this section—

(1) the term "Armed Forces" has the meaning given the term in section 101 of title 10 and includes members and former members of the National Guard who were employed in the service of the United States; and

(2) the term "immediate family" means, with respect to a person, the immediate family members of such person, as such term is defined in section 115 of this title.

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Title 38. Veterans' Benefits

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Part I. General Provisions

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Chapter 1. General

* * * * * * *

SEC. 111. PAYMENTS OR ALLOWANCES FOR BENEFICIARY TRAVEL

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(b)(1) * * *

* * * * * * *

(3)(A) * * *

* * * * * * *

(C) In the case of transportation of a person under subparagraph (B) by ambulance, the Secretary may pay the provider of the transportation the lesser of the actual charge for the transportation or the amount determined by the fee schedule established under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) unless the Secretary has entered into a contract for that transportation with the provider.

* * * * * * *

SEC. 112. PRESIDENTIAL MEMORIAL CERTIFICATE PROGRAM

(a) At the request of the President the Secretary may conduct a program for honoring the memory of deceased veterans, discharged under honorable conditions, *and persons who died in the active military, naval, or air service,* by preparing and sending to eligible recipients a certificate bearing the signature of the President and expressing the country's grateful recognition of the [veteran's] *deceased individual's* service in the Armed Forces. The award of a certificate to one eligible recipient will not preclude authorization of another certificate if a request is received from some other eligible recipient.

* * * * * * *

Chapter 3. Department of Veterans Affairs

* * * * * * *

SEC. 315. REGIONAL OFFICES

(a) * * *

(b) The Secretary may maintain a regional office in the Republic of the Philippines until [December 31, 2011] *December 31, 2012*.

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Part II. General Benefits

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Chapter 15. Pension for Non-Service-Connected Disability or Death or for Service

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Subchapter II. Veterans' Pensions

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NON-SERVICE-CONNECTED DISABILITY PENSION

SEC. 1521. VETERANS OF A PERIOD OF WAR.

* * * * * * *

(f)(1) * * *

(2) If either such veteran is in need of regular aid and attendance, the annual rate provided by paragraph (1) of this subsection shall be $23,396. If both such veterans are in need of regular aid and attendance, such rate shall be [$30,480] *$31,305*.

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Chapter 17. Hospital, Nursing Home, Domiciliary, and Medical Care

Sec.

SUBCHAPTER I. GENERAL

* * * * * * *

1708. Temporary lodging.

1709. Teleconsultation.

* * * * * * *

SUBCHAPTER III. MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

1721. Power to make rules and regulations.

* * * * * * *

1722A. Copayment for medications.

1722B. Copayments: waiver of collection of copayments for telehealth and telemedicine visits of veterans.

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Subchapter I. General

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SEC. 1708. TEMPORARY LODGING

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SEC. 1709. TELECONSULTATION

(a) TELECONSULTATION.—(1) The Secretary shall carry out a program of teleconsultation for the provision of remote mental health and traumatic brain injury assessments in facilities of the Department that are not otherwise able to provide such assessments without contracting with third party providers or reimbursing providers through a fee basis system.

(2) The Secretary shall, in consultation with appropriate professional societies, promulgate technical and clinical care standards for the use of teleconsultation services within facilities of the Department.

(b) TELECONSULTATION DEFINED.—In this section, the term "teleconsultation" means the use by a health care specialist of telecommunications to assist another health care provider in rendering a diagnosis or treatment.

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

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SEC. 1710C. TRAUMATIC BRAIN INJURY: PLANS FOR REHABILITATION AND REINTEGRATION INTO THE COMMUNITY

(a) * * *

(1) develop an individualized plan for the rehabilitation and reintegration of the individual into the community *with the goal of maximizing the individual's independence*; and

* * * * * * *

(b) * * *

(1) Rehabilitation objectives for improving *(and sustaining improvement in)* the physical, cognitive, *behavioral,* and vocational functioning of the individual with the goal of maximizing the independence and reintegration of such individual into the community.

(2) Access, as warranted, to all appropriate *rehabilitative services and* rehabilitative components of the traumatic brain injury continuum of care, and where appropriate, to long-term care services.

(3) A description of specific rehabilitative [treatments] *services* and other services to achieve the objectives described in paragraph (1), which shall set forth the type, frequency, duration, and location of such [treatments and] services.

* * * * * * *

(c) COMPREHENSIVE ASSESSMENT.—

(1) * * *

(2) * * *

(A) A neurologist.

* * * * * * *

(S) An [opthamologist] *ophthalmologist*.

* * * * * * *

(h) REHABILITATIVE SERVICES DEFINED.—For purposes of this section, and sections 1710D and 1710E of this title, the term "rehabilitative services" includes—

(1) rehabilitative services, as such term is defined in section 1701 of this title;

(2) treatment and services (which may be of ongoing duration) to sustain, and prevent loss of, functional gains that have been achieved; and

(3) any other rehabilitative services or supports that may contribute to maximizing an individual's independence.

SEC. 1710D. TRAUMATIC BRAIN INJURY: COMPREHENSIVE PROGRAM FOR LONG-TERM REHABILITATION

(a) COMPREHENSIVE PROGRAM.—In developing plans for the rehabilitation and reintegration of individuals with traumatic brain injury under section 1710C of this title, the Secretary shall develop and carry out a comprehensive program of long-term care *and rehabilitative services (as defined in section 1710C of this title)* for postacute traumatic brain injury rehabilitation that includes residential, community, and home-based components utilizing interdisciplinary [treatment] teams.

* * * * * * *

SEC. 1710E. TRAUMATIC BRAIN INJURY: USE OF NON-DEPARTMENT FACILITIES FOR REHABILITATION

(a) COOPERATIVE AGREEMENTS.—The Secretary, in implementing and carrying out a plan developed under section 1710C of this title, may provide hospital care and medical services*, including rehabilitative services (as defined in section 1710C of this title),* through cooperative agreements with appropriate public or private entities that have established long-term neurobehavioral rehabilitation and recovery programs.

* * * * * * *

SEC. 1714. FITTING AND TRAINING IN USE OF PROSTHETIC APPLIANCES; GUIDE DOGS; SERVICE DOGS

* * * * * * *

(e)(1) Subject to paragraph (3), the Secretary shall admit service animals described in paragraph (2) to any building or property of the Department on the same terms and conditions, and subject to the same regulations, as otherwise generally govern the admission of the public to such buildings or properties.

(2) The service animals described in this paragraph are service dogs provided under subsection (c) and other guide dogs or service animals that accompany individuals with disabilities and that are especially trained and educated to accompany such individuals.

(3) The Secretary may prohibit service animals described in paragraph (2) from running free in or roaming buildings or properties described in paragraph (1) and may require such service animals to adorn guiding harnesses or leashes and be under the control of

an individual at all times while in such buildings or on such properties.

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Subchapter III. Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans

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SEC. 1722A. COPAYMENT FOR MEDICATIONS

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SEC. 1722B. COPAYMENTS: WAIVER OF COLLECTION OF COPAYMENTS FOR TELEHEALTH AND TELEMEDICINE VISITS OF VETERANS

The Secretary may waive the imposition or collection of copayments for telehealth and telemedicine visits of veterans under the laws administered by the Secretary.

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Subchapter V. Payments to State Homes

* * * * * * *

SEC. 1745. NURSING HOME CARE AND MEDICATIONS FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

(a)(1) ⟦The Secretary shall pay each State home for nursing home care at the rate determined under paragraph (2)⟧ *The Secretary shall enter into a contract (or agreement under section 1720(c)(1) of this title) with each State home for payment by the Secretary for nursing home care provided in the home*, in any case in which such care is provided to any veteran as follows:

* * * * * * *

⟦(2) The rate determined under this paragraph with respect to a State home is the lesser of—

⟦(A) the applicable or prevailing rate payable in the geographic area in which the State home is located, as determined by the Secretary, for nursing home care furnished in a non-Department nursing home (as that term is defined in section 1720(e)(2) of this title); or

⟦(B) a rate not to exceed the daily cost of care, as determined by the Secretary, following a report to the Secretary by the director of the State home.⟧

(2) Payment under each contract (or agreement) between the Secretary and a State home under paragraph (1) shall be based on a methodology, developed by the Secretary in consultation with the State home, to adequately reimburse the State home for the care provided by the State home under the contract (or agreement).

* * * * * * *

Chapter 20. Benefits For Homeless Veterans

* * * * * * *

Subchapter II. Comprehensive Service Programs

SEC. 2011. GRANTS

* * * * * * *

(b) * * *

(1) * * *

(A) [expansion, remodeling, or alteration of existing buildings, or acquisition of facilities,] *new construction of facilities, expansion, remodeling, or alteration of existing facilities, or acquisition of facilities* for use as service centers, transitional housing, or other facilities to serve homeless veterans; and

* * * * * * *

(c) FUNDING LIMITATIONS.—[A grant] *(1) A grant* under this section may not be used to support operational costs. [The amount] *(2) The amount* of a grant under this section may not exceed 65 percent of the estimated cost of the project concerned.

(3)(A) The Secretary may not deny an application from an entity that seeks a grant under this section to carry out a project described in subsection (b)(1)(A) solely on the basis that the entity proposes to use funding from other private or public sources, if the entity demonstrates that a private nonprofit organization will provide oversight and site control for the project.

(B) In this paragraph, the term "private nonprofit organization" means the following:

(i) An incorporated private institution, organization, or foundation—

(I) that has received, or has temporary clearance to receive, tax-exempt status under paragraph (2), (3), or (19) of section 501(c) of the Internal Revenue Code of 1986;

(II) for which no part of the net earnings of the institution, organization, or foundation inures to the benefit of any member, founder, or contributor of the institution, organization, or foundation; and

(III) that the Secretary determines is financially responsible.

(ii) A for-profit limited partnership or limited liability company, the sole general partner or manager of which is an organization that is described by subclauses (I) through (III) of clause (i).

(iii) A corporation wholly owned and controlled by an organization that is described by subclauses (I) through (III) of clause (i).

* * * * * * *

SEC. 2013. AUTHORIZATION OF APPROPRIATIONS

There is authorized to be appropriated to carry out this [subchapter $150,000,000 for fiscal year 2007 and each fiscal year thereafter.] *subchapter amounts as follows:*

(1) $150,000,000 for each of fiscal years 2007 through 2009.

(2) $175,100,000 for fiscal year 2010.

(3) $217,700,000 for fiscal year 2011.

(4) $250,000,000 for fiscal year 2012.

(5) $150,000,000 for fiscal year 2013 and each fiscal year thereafter.

Subchapter III. Training and Outreach

SEC. 2021. HOMELESS VETERANS REINTEGRATION PROGRAMS

* * * * * * *

(e) * * *

(1) * * *

* * * * * * *

(G) $50,000,000 for fiscal year 2012.

* * * * * * *

Subchapter IV. Treatment and Rehabilitation for Seriously Mentally Ill and Homeless Veterans

SEC. 2031. GENERAL TREATMENT

(a) In providing care and services under section 1710 of this title to veterans suffering from serious mental illness[, including] *and to* veterans who are homeless, the Secretary may provide (directly or in conjunction with a governmental or other entity)—

* * * * * * *

(b) The authority of the Secretary under subsection (a) expires on [December 31, 2011] *December 31, 2012*.

* * * * * * *

SEC. 2033. ADDITIONAL SERVICES AT CERTAIN LOCATIONS

* * * * * * *

(d) The program under this section shall terminate on [December 31, 2011] *December 31, 2014*.

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Subchapter V. Housing Assistance

SEC. 2041. HOUSING ASSISTANCE FOR HOMELESS VETERANS

* * * * * * *

(c) The Secretary may not enter into agreements under subsection (a) after [December 31, 2011] *December 31, 2014*.

* * * * * * *

SEC. 2044. FINANCIAL ASSISTANCE FOR SUPPORTIVE SERVICES FOR VERY LOW-INCOME VETERAN FAMILIES IN PERMANENT HOUSING

* * * * * * *

(e) FUNDING.—

(1) From amounts appropriated to the Department for Medical Services, there shall be available to [carry out subsection (a), (b), and (c)] *carry out subsections (a), (b), and (c)* amounts as follows:

(A) $15,000,000 for fiscal year 2009.

(B) $20,000,000 for fiscal year 2010.

(C) $25,000,000 for fiscal year 2011.

(D) $100,000,000 for fiscal year 2012.

(2) * * *

(3) There is authorized to be appropriated $1,000,000 for each of the fiscal years 2009 through [2011] *2012* to carry out the provisions of subsection (d).

* * * * * * *

Subchapter VII. Other Provisions

SEC. 2061. GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS

(a) ESTABLISHMENT.—The Secretary shall carry out a program to make grants to health care facilities of the Department and [to grant and per diem providers] *to entities eligible for grants and per diem payments under sections 2011 and 2012 of this title* in order to encourage development [by those facilities and providers] *by those facilities and entities* of programs for homeless veterans with special needs.

(b) HOMELESS VETERANS WITH SPECIAL NEEDS.—For purposes of this section, homeless veterans with special needs include homeless veterans who are—

(1) women[, including women who have care of minor dependents];

(2) frail elderly;

(3) terminally ill; [or]

(4) chronically mentally ill[.]*; or*

(5) individuals who have care of minor dependents.

(c) Provision of Services to Dependents.—A recipient of a grant under subsection (a) may use amounts under the grant to provide services directly to a dependent of a homeless veteran with special needs who is under the care of such homeless veteran while such homeless veteran receives services from the grant recipient under this section.

(d) [(c)] FUNDING.—

(1) From amounts appropriated to the Department for "Medical Services" for each of fiscal years 2007 through [2011] *2013*, $5,000,000 shall be available for each such fiscal year for the purposes of the program under this section.

* * * * * * *

SEC. 2066. ADVISORY COMMITTEE ON HOMELESS VETERANS

* * * * * * *

(d) TERMINATION.—The Committee shall cease to exist [December 31, 2011] *December 31, 2013*.

* * * * * * *

Chapter 21. Specially Adapted Housing for Disabled Veterans

Sec.

2101. Acquisition and adaptation of housing: eligible veterans.

* * * * * * *

2108. Specially adapted housing assistive technology grant program.

2109. Specially adapted housing destroyed or damaged by natural disasters.

SEC. 2101. ACQUISITION AND ADAPTATION OF HOUSING: ELIGIBLE VETERANS

* * * * * * *

(b) ADAPTATIONS TO RESIDENCE OF VETERAN.

(1) * * *

[(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets any of the following criteria:

[(A) The disability is due to blindness in both eyes with 5/200 visual acuity or less.

[(B) The disability includes the anatomical loss or loss of use of both hands.

[(C) The disability is due to a severe burn injury (as so determined).**]**

(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a service-connected disability that meets any of the following criteria:

(A) The disability is due to blindness in both eyes, having central visual acuity of 20/200 or less in the better eye with the use of a standard correcting lens. For the purposes of this subparagraph, an eye with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

(B) A permanent and total disability that includes the anatomical loss or loss of use of both hands.

(C) A permanent and total disability that is due to a severe burn injury (as so determined).

* * * * * * *

SEC. 2102. LIMITATIONS ON ASSISTANCE FURNISHED

* * * * * * *

(d)(1) The aggregate amount of assistance available to an individual **[**under sections 2101(a) and 2102A**]** *under section 2101(a)* of this title shall be limited to $60,000.

(2) The aggregate amount of assistance available to an individual **[**under sections 2101(b) and 2102A**]** *under section 2101(b)* of this title shall be limited to $12,000.

* * * * * * *

SEC. 2102A. ASSISTANCE FOR INDIVIDUALS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER

* * * * * * *

(b) AMOUNT OF ASSISTANCE.—*(1)* The assistance authorized under subsection (a) may not exceed—

(A) **[**(1)**]** **[**$14,000**]** *$28,000*, in the case of an individual described in section 2101(a)(2) of this title; or

(B) **[**(2)**]** **[**$2,000**]** *$5,000*, in the case of an individual described in section 2101(b)(2) of this title.

(2) Effective on October 1 of each year (beginning in 2012), the Secretary shall use the same percentage calculated pursuant to section 2102(e) of this title to increase the amounts described in paragraph (1) of this subsection.

* * * * * * *

(e) TERMINATION.—No assistance may be provided under this section after [December 31, 2011] *December 31, 2021.*

* * * * * * *

SEC. 2108. SPECIALLY ADAPTED HOUSING ASSISTIVE TECHNOLOGY GRANT PROGRAM.

* * * * * * *

SEC. 2109. SPECIALLY ADAPTED HOUSING DESTROYED OR DAMAGED BY NATURAL DISASTERS

(a) IN GENERAL.—Notwithstanding the provisions of section 2102 of this title, the Secretary may award a grant to a veteran whose home was previously adapted with assistance of a grant under this chapter in the event the adapted home which was being used and occupied by the veteran was destroyed or substantially damaged in a natural or other disaster, as determined by the Secretary.

(b) USE OF FUNDS.—A grant awarded under subsection (a) shall be available to acquire a suitable housing unit with special fixtures or moveable facilities made necessary by the veteran's disability, and necessary land therefor.

(c) LIMITATIONS.—The amount of the grant awarded under subsection (a) may not exceed the lesser of—

(1) the reasonable cost, as determined by the Secretary, of repairing or replacing the damaged or destroyed home in excess of the available insurance coverage on such home; or

(2) the maximum grant amount to which the veteran would have been entitled under subsection (a) or (b) of section 2102 of this title had the veteran not obtained the prior grant.

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Chapter 24. National Cemeteries and Memorials

Sec.

2400. Establishment of National Cemetery Administration; composition of Administration.

* * * * * * *

2410. Burial of cremated remains in Arlington National Cemetery.

2410A. Arlington National Cemetery: other administrative matters.

* * * * * * *

2413. Prohibition on certain demonstrations *and disruptions* at cemeteries under control of the National Cemetery Administration and at Arlington National Cemetery.

* * * * * * *

SEC. 2410A. ARLINGTON NATIONAL CEMETERY: OTHER ADMINISTRATIVE MATTERS

(a) ONE GRAVESITE.—(1) Not more than one gravesite may be provided at Arlington National Cemetery to a veteran or member of the

Armed Forces who is eligible for interment or inurnment at such cemetery.

(2) The Secretary of the Army may waive the prohibition in paragraph (1) as the Secretary of the Army considers appropriate.

(b) PROHIBITION AGAINST RESERVATION OF GRAVESITES.—A gravesite at Arlington National Cemetery may not be reserved for an individual before the death of such individual.

* * * * * * *

[SEC. 2413. PROHIBITION ON CERTAIN DEMONSTRATIONS AT CEMETERIES UNDER CONTROL OF THE NATIONAL CEMETERY ADMINISTRATION AND AT ARLINGTON NATIONAL CEMETERY

[(a) PROHIBITION.—No person may carry out—

[(1) a demonstration on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery unless the demonstration has been approved by the cemetery superintendent or the director of the property on which the cemetery is located; or

[(2) with respect to such a cemetery, a demonstration during the period beginning 60 minutes before and ending 60 minutes after a funeral, memorial service, or ceremony is held, any part of which demonstration—

[(A)(i) takes place within 150 feet of a road, pathway, or other route of ingress to or egress from such cemetery property; and

[(ii) includes, as part of such demonstration, any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral, memorial service, or ceremony; or

[(B) is within 300 feet of such cemetery and impedes the access to or egress from such cemetery.

[(b) DEMONSTRATION.—For purposes of this section, the term "demonstration" includes the following:

[(1) Any picketing or similar conduct.

[(2) Any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral, memorial service, or ceremony.

[(3) The display of any placard, banner, flag, or similar device, unless such a display is part of a funeral, memorial service, or ceremony.

[(4) The distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral, memorial service, or ceremony.]

SEC. 2413. PROHIBITION ON CERTAIN DEMONSTRATIONS AND DISRUPTIONS AT CEMETERIES UNDER CONTROL OF THE NATIONAL CEMETERY ADMINISTRATION AND AT ARLINGTON NATIONAL CEMETERY

(a) PROHIBITION.—It shall be unlawful for any person—

(1) to carry out a demonstration on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery unless the dem-

onstration has been approved by the cemetery superintendent or the director of the property on which the cemetery is located; or

(2) with respect to such a cemetery, to engage in a demonstration during the period beginning 120 minutes before and ending 120 minutes after a funeral, memorial service, or ceremony is held, any part of which demonstration—

(A)(i) takes place within the boundaries of such cemetery or takes place within 300 feet of the point of the intersection between—

(I) the boundary of such cemetery; and

(II) a road, pathway, or other route of ingress to or egress from such cemetery; and

(ii) includes any individual willfully making or assisting in the making of any noise or diversion—

(I) that is not part of such funeral, memorial service, or ceremony and that disturbs or tends to disturb the peace or good order of such funeral, memorial service, or ceremony; and

(II) with the intent of disturbing the peace or good order of such funeral, memorial service, or ceremony; or

(B)(i) is within 500 feet of the boundary of such cemetery; and

(ii) includes any individual—

(I) willfully and without proper authorization impeding or tending to impede the access to or egress from such cemetery; and

(II) with the intent to impede the access to or egress from such cemetery.

(b) PENALTY.—Any person who violates subsection (a) shall be fined under title 18 or imprisoned for not more than 1 year, or both.

(c) CIVIL REMEDIES.—(1) The district courts of the United States shall have jurisdiction—

(A) to prevent and restrain violations of this section; and

(B) for the adjudication of any claims for relief under this section.

(2) The Attorney General of the United States may institute proceedings under this section.

(3) Any person, including a surviving member of the deceased person's immediate family, who suffers injury as a result of conduct that violates this section may—

(A) sue therefor in any appropriate United States district court or in any court of competent jurisdiction; and

(B) recover damages as provided in subsection (d) and the cost of the suit, including reasonable attorneys' fees.

(4) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by a person or by the United States.

(d) ACTUAL AND STATUTORY DAMAGES.—(1) In addition to any penalty imposed under subsection (b), a violator of this section is liable in an action under subsection (c) for actual or statutory damages as provided in this subsection.

(2) A person bringing an action under subsection (c)(3) may elect, at any time before final judgment is rendered, to recover the actual damages suffered by him or her as a result of the violation or, instead of actual damages, an award of statutory damages for each violation involved in the action.

(3) In any action brought under subsection (c)(2), the Attorney General is entitled to recover an award of statutory damages for each violation involved in the action notwithstanding any recovery under subsection (c)(3).

(4) A court may award, as the court considers just, statutory damages in a sum of not less than $25,000 or more than $50,000 per violation.

(e) REBUTTABLE PRESUMPTION.—It shall be a rebuttable presumption that the violation of subsection (a) was committed willfully for purposes of determining relief under this section if the violator, or a person acting in concert with the violator, did not have reasonable grounds to believe, either from the attention or publicity sought by the violator or other circumstance, that the conduct of such violator or person would not—

(1) disturb or tend to disturb the peace or good order of such funeral, memorial service, or ceremony; or

(2) impede or tend to impede the access to or egress from such funeral, memorial service, or ceremony.

(f) DEFINITIONS.—In this section—

(1) the term "demonstration" includes—

(A) any picketing or similar conduct;

(B) any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral, memorial service, or ceremony;

(C) the display of any placard, banner, flag, or similar device, unless such a display is part of a funeral, memorial service, or ceremony; and

(D) the distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral, memorial service, or ceremony; and

(2) the term "immediate family" means, with respect to a person, the immediate family members of such person, as such term is defined in section 115 of title 18.

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Part III. Readjustment and Related Benefits

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Chapter 31. Training and Rehabilitation for Veterans with Service-Connected Disabilities

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SEC. 3108. ALLOWANCES

(a)(1) * * *

(2)*(A)* In any case in which the Secretary determines, at the conclusion of such veteran's pursuit of a vocational rehabilitation program under this chapter, that such veteran has been rehabilitated

to the point of employability, such veteran shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months while satisfactorily following a program of employment services provided under section 3104(a)(5) of this title.

(B) In any case in which the Secretary determines that a veteran described in subparagraph (A) has been displaced as the result of a natural or other disaster while being paid a subsistence allowance under that subparagraph, as determined by the Secretary, the Secretary may extend the payment of a subsistence allowance under such subparagraph for up to an additional two months while the veteran is satisfactorily following a program of employment services described in such subparagraph.

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SEC. 3120. PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE

* * * * * * *

(e)*(1)* Programs of independent living services and assistance shall be initiated for no more than 2,700 veterans in each fiscal year, and the first priority in the provision of such programs shall be afforded to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability.

(2) The limitation in paragraph (1) shall not apply in any case in which the Secretary determines that a veteran described in subsection (b) has been displaced as the result of, or has otherwise been adversely affected in the areas covered by, a natural or other disaster, as determined by the Secretary.

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Chapter 36. Administration of Educational Benefits

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Subchapter II. Miscellaneous Provisions

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SEC. 3695. LIMITATION ON PERIOD OF ASSISTANCE UNDER TWO OR MORE PROGRAMS

(a) * * *

* * * * * * *

(4) Chapters 30, 32, 33, 34, [35,] and 36.

* * * * * * *

(c) The aggregate period for which any person may receive assistance under chapter 35 of this title, on the one hand, and any of the provisions of law referred to in subsection (a), on the other hand, may not exceed 81 months (or the part-time equivalent thereof).

* * * * * * *

Chapter 37. Housing and Small Business Loans

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Subchapter I. General

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SEC. 3703. BASIC PROVISIONS RELATING TO LOAN GUARANTY AND INSURANCE

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(d)(1) * * *

* * * * * * *

[(3) Any real estate housing loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. In determining whether a loan for the purchase or construction of a home is so secured, the Secretary may disregard a superior lien created by a duly recorded covenant running with the realty in favor of a private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services or programs within and for the benefit of the development or community in which the veteran's realty is located, if the Secretary determines that the interests of the veteran borrower and of the Government will not be prejudiced by the operation of such covenant. In respect to any such superior lien to be created after June 6, 1969, the Secretary's determination must have been made prior to the recordation of the covenant.]

(3)(A) Any real estate housing loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. In determining whether a loan is so secured, the Secretary may either disregard or allow for subordination to a superior lien created by a duly recorded covenant running with the realty in favor of either of the following:

(i) A public entity that has provided or will provide assistance in response to a major disaster as determined by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(ii) A private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services, or programs within and for the benefit of the development or community in which the veteran's realty is located, if the Secretary determines that the interests of the veteran borrower and of the Government will not be prejudiced by the operation of such covenant.

(B) With respect to any superior lien described in subparagraph (A) created after June 6, 1969, the Secretary's determination under clause (ii) of such subparagraph shall have been made prior to the recordation of the covenant.

* * * * * * *

SEC. 3704. RESTRICTIONS ON LOANS

* * * * * * *

(c)(1) * * *

[(2) In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of—

[(A) paragraph (1) of this subsection;

[(B) paragraphs (1) through (5) and paragraph (7) of section 3710(a) of this title;

[(C) section 3712(a)(5)(A)(i) of this title; and

[(D) section 3712(e)(5) of this title;

[shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and the spouse makes the certification required by paragraph (1) of this subsection.]

(2) In any case in which a veteran is in active-duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of this chapter shall be considered to be satisfied if—

(A) the spouse of the veteran occupies or intends to occupy the property as a home and the spouse makes the certification required by paragraph (1) of this subsection; or

(B) a dependent child of the veteran occupies or will occupy the property as a home and the veteran's attorney-in-fact or legal guardian of the dependent child makes the certification required by paragraph (1) of this subsection.

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Subchapter III. Administrative Provisions

* * * * * * *

SEC. 3729. LOAN FEE

(a) * * *

(b) DETERMINATION OF FEE.—

(1) * * *

(2) The loan fee table referred to in paragraph (1) is as follows:

Loan Fee Table

Type of loan	Active duty	Reservist	Other obligor veteran
[(A)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed before January 1, 2004)	2.00	2.75	NA
[(A)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after January 1, 2004, and before October 1, 2004)	2.20	2.40	NA]
(A)*(i)* [(iii)] Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2004, and before October 1, 2011)	2.15	2.40	NA
(A)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2011, and before October 1, 2012)	1.50	1.75	NA
(A)*(iii)* [(iv)] Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after [October 1, 2011] *October 1, 2012*)	1.40	2.65	NA

* * * * * * *

(c) WAIVER OF FEE.—

(1) * * *

[(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.]

(2)(A) A veteran described in subparagraph (B) shall be treated as receiving compensation for purposes of this subsection as of the date of the rating described in such subparagraph without regard to whether an effective date of the award of compensation is established as of that date.

(B) A veteran described in this subparagraph is a veteran who is rated eligible to receive compensation—

(i) as the result of a pre-discharge disability examination and rating; or

(ii) based on a pre-discharge review of existing medical evidence (including service medical and treatment records) that results in the issuance of a memorandum rating.

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Chapter 39. Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces

* * * * * * *

SEC. 3903. LIMITATIONS ON ASSISTANCE; SPECIAL TRAINING COURSES

(a) [No] *(1) Except as provided in paragraph (2), no* eligible person shall be entitled to receive more than one automobile or other conveyance under the provisions of this chapter, and no payment shall be made under this chapter for the repair, maintenance, or replacement of an automobile or other conveyance.

(2) The Secretary may provide or assist in providing an eligible person with a second automobile or other conveyance under this chapter if—

(A) the Secretary receives satisfactory evidence that the automobile or other conveyance previously purchased with assistance under this chapter was destroyed—

(i) as a result of a natural or other disaster, as determined by the Secretary; and

(ii) through no fault of the eligible person; and

(B) the eligible person does not otherwise receive from a property insurer compensation for the loss.

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Part IV. General Administrative Provisions

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Chapter 51. Claims, Effective Dates, and Payments

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Subchapter I. Claims

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SEC. 5101. CLAIMS AND FORMS

(a)*(1) A specific* [A specific] claim in the form prescribed by the Secretary (or jointly with the Commissioner of Social Security, as prescribed by section 5105 of this title) must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Secretary.

(2) If an individual has not attained the age of 18 years, is mentally incompetent, or is physically unable to sign a form, a form filed under paragraph (1) for the individual may be signed by a court-appointed representative, a person who is responsible for the care of the individual, including a spouse or other relative, or an attorney in fact or agent authorized to act on behalf of the individual under a durable power of attorney. If the individual is in the care of an institution, the manager or principal officer of the institution may sign the form.

* * * * * * *

(c)(1) Any person who applies for*, signs a form on behalf of an individual to apply for,* or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person*, or TIN in the case that the person is not an individual,* and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of such benefit. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number *or TIN* required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number *or TIN*.

(3) * * *

(d) In this section:

(1) The term "mentally incompetent" with respect to an individual means that the individual lacks the mental capacity—

(A) to provide substantially accurate information needed to complete a form; or

(B) to certify that the statements made on a form are true and complete.

(2) The term "TIN" has the meaning given the term in section 7701(a)(41) of the Internal Revenue Code of 1986.

* * * * * * *

SEC. 5105. JOINT APPLICATIONS FOR SOCIAL SECURITY AND DEPENDENCY AND INDEMNITY COMPENSATION

(a) The Secretary and the Commissioner of Social Security [shall] *may* jointly prescribe forms for use by survivors of members and former members of the uniformed services in filing application for benefits under chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.). [Each such form] *Such forms* shall request information sufficient to constitute an application for benefits under both chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.).

(b) When an application [on such a form] *on any document indicating an intent to apply for survivor benefits* is filed with either the Secretary or the Commissioner of Social Security, it shall be deemed to be an application for benefits under both chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.). A copy of each such application filed with either the Secretary or the Commissioner, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary or the Commissioner with such application, and which may be needed by the other official in connection therewith, shall be transmitted by the Secretary or the Commissioner receiving the application to the other official. The preceding sentence shall not prevent the Secretary and the Commissioner of Social Security from requesting the applicant, or any other individual, to furnish such additional information as may be necessary for purposes of chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.) respectively.

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Subchapter II. Effective Dates

SEC. 5110. EFFECTIVE DATES OF AWARDS

(a) * * *

(b)(1) * * *

(2)(A) The effective date of an award of disability compensation to a veteran who submits an application therefor that sets forth a claim that is fully-developed (as prescribed by the Secretary for purposes of this paragraph) as of the date of submittal shall be fixed in accordance with the facts found, but shall not be earlier than the date that is one year before the date of receipt of the application.

(B) Subparagraph (A) shall take effect on the date of the enactment of this paragraph and shall not apply with respect to claims filed after September 30, 2012.

(3) [(2)] The effective date of an award of increased compensation shall be the earliest date as of which it is ascertainable that an increase in disability had occurred, if application is received within one year from such date.

(4) [(3)](A) The effective date of an award of disability pension to a veteran described in subparagraph (B) of this paragraph shall be the date of application or the date on which the veteran became permanently and totally disabled, if the veteran applies for a retroactive award within one year from such date, whichever is to the advantage of the veteran.

* * * * * * *

SEC. 5111. COMMENCEMENT OF PERIOD OF PAYMENT

* * * * * * *

(c)(1) This section shall [apply to payments made pursuant to section 5310 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred] *not apply to payments made pursuant to section 5310 of this title.*

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Chapter 53. Special Provisions Relating to Benefits

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SEC. 5310. PAYMENT OF BENEFITS FOR MONTH OF DEATH

[(a) If, in accordance with the provisions of section 5110(d) of this title, a surviving spouse is entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which a veteran's death occurs, the amount of such death benefits for that month shall be not less than the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

[(b)(1) If the surviving spouse of a veteran who was in receipt of compensation or pension at the time of death is not entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which the veteran's death occurs, that surviving spouse shall be entitled to a benefit for that month in the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

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

(a) IN GENERAL.—(1) A surviving spouse of a veteran is entitled to a benefit for the month of the veteran's death if—

(A) at the time of the veteran's death, the veteran was receiving compensation or pension under chapter 11 or 15 of this title; or

(B) the veteran is determined for purposes of section 5121 or 5121A of this title as having been entitled to receive compensation or pension under chapter 11 or 15 of this title for the month of the veteran's death.

(2) The amount of the benefit under paragraph (1) is the amount that the veteran would have received under chapter 11 or 15 of this

title, as the case may be, for the month of the veteran's death had the veteran not died.

(b) CLAIMS PENDING ADJUDICATION.—If a claim for entitlement to compensation or additional compensation under chapter 11 of this title or pension or additional pension under chapter 15 of this title is pending at the time of a veteran's death and the check or other payment issued to the veteran's surviving spouse under subsection (a) is less than the amount of the benefit the veteran would have been entitled to for the month of death pursuant to the adjudication of the pending claim, an amount equal to the difference between the amount to which the veteran would have been entitled to receive under chapter 11 or 15 of this title for the month of the veteran's death had the veteran not died and the amount of the check or other payment issued to the surviving spouse shall be treated in the same manner as an accrued benefit under section 5121 of this title.

* * * * * * *

SEC. 5317. USE OF INCOME INFORMATION FROM OTHER AGENCIES: NOTICE AND VERIFICATION

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(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Commissioner of Social Security under section 6103(1)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on [September 30, 2011] *September 30, 2013*.

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Chapter 57. Records and Investigations

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Subchapter I. Records

SEC. 5701. CONFIDENTIAL NATURE OF CLAIMS

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(l) Under regulations the Secretary shall prescribe, the Secretary may disclose information about a veteran or the dependent of a veteran to a State controlled substance monitoring program, including a program approved by the Secretary of Health and Human Services under section 399O of the Public Health Service Act (42 U.S.C. 280g–3), to the extent necessary to prevent misuse and diversion of prescription medicines.

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Part V. Boards, Administrations, and Services

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Chapter 71. Board of Veterans' Appeals

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SEC. 7105. FILING OF NOTICE OF DISAGREEMENT AND APPEAL

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(e)(1) If, either at the time or after the agency of original jurisdiction receives a substantive appeal, the claimant or the claimant's representative, if any, submits evidence to either the agency of original jurisdiction or the Board of Veterans' Appeals for consideration in connection with the issue or issues with which disagreement has been expressed, such evidence shall be subject to initial review by the Board unless the claimant or the claimant's representative, as the case may be, requests in writing that the agency of original jurisdiction initially review such evidence.

(2) A request for review of evidence under paragraph (1) shall accompany the submittal of the evidence.

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Chapter 73. Veterans Health Administration-Organization and Functions

Sec.

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SUBCHAPTER II. GENERAL AUTHORITY AND ADMINISTRATION

7330A. Epilepsy centers of excellence.

7330B. Centers of excellence for rural health research, education, and clinical activities.

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Subchapter I. Organization

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SEC. 7308. OFFICE OF RURAL HEALTH

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(d) RURAL HEALTH RESOURCE CENTERS.—(1) There are in the Office veterans rural health resource centers that serve as satellite offices for the Office.

(2) The veterans rural health resource centers have purposes as follows:

(A) To improve the understanding of the Office of the challenges faced by veterans living in rural areas.

(B) To identify disparities in the availability of health care to veterans living in rural areas.

(C) To formulate practices or programs to enhance the delivery of health care to veterans living in rural areas.

(D) To develop special practices and products for the benefit of veterans living in rural areas and for implementation of such practices and products in the Department systemwide.

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Subchapter II. General Authority and Administration

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SEC. 7330A. EPILEPSY CENTERS OF EXCELLENCE

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SEC. 7330B. CENTERS OF EXCELLENCE FOR RURAL HEALTH RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.

(a) ESTABLISHMENT.—The Secretary shall, through the Director of the Office of Rural Health, establish and operate centers of excellence for rural health research, education, and clinical activities.

(b) ACTIVITIES.—Each center established and operated under subsection (a) shall carry out one or more of the following:

(1) Collaboration with the Office of Research and Development of the Veterans Health Administration on research relating to the furnishing of health services in rural areas.

(2) Development of specific models to be used by the Department in furnishing health services to veterans in rural areas.

(3) Provision of education and training for health care professionals of the Department on the furnishing of health services to veterans in rural areas.

(4) Development and implementation of innovative clinical activities and systems of care for the Department for the furnishing of health services to veterans in rural areas.

(c) DESIGNATION.—The Secretary may designate a rural health resource of the Office of Rural Health as a center of excellence for purposes of this section, including a rural health resource center described in section 7308(d) of this title, if such resource or center engages in one or more of the activities described in subsection (b).

(d) FUNDING.—Activities of clinical and scientific investigation at each center operated under this section shall be eligible to compete for the award of funding from funds appropriated for the Medical and Prosthetics Research Account.

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Subchapter III. Protection of Patient Rights

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SEC. 7332. CONFIDENTIALITY OF CERTAIN MEDICAL RECORDS

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(b)(1) * * *

(2) * * *

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(G) To a State controlled substance monitoring program, including a program approved by the Secretary of Health and Human Services under section 399O of the Public Health Service Act (42 U.S.C. 280g–3), to the extent necessary to prevent misuse and diversion of prescription medicines.

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Chapter 76. Health Professionals Educational Assistance Program

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Subchapter VI. Employee Incentive Scholarship Program

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SEC. 7675. BREACH OF AGREEMENT: LIABILITY

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(b) LIABILITY DURING COURSE OF EDUCATION OR TRAINING.—

(1) * * *

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[(E) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by the participant, as a Department employee.]

(E) In the case of a participant who is employed as an employee of the Department while enrolled in the course of training being pursued by the participant, the participant fails to maintain employment as a Department employee during such course of training.

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Part VI. Acquisition and Disposition of Property

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Chapter 81. Acquisition and Operation of Hospital and Domiciliary Facilities; Procurement and Supply; Enhanced-Use Leases of Real Property

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Subchapter I. Acquisition and Operation of Medical Facilities

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SEC. 8104. CONGRESSIONAL APPROVAL OF CERTAIN MEDICAL FACILITY ACQUISITIONS

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(d)(1) * * *

(2)(A) * * *

(B) * * *

(C) The Secretary may not obligate an amount under subparagraph (A) to expand the purpose of a major medical facility project except pursuant to a provision of law enacted after the date on which the Secretary submits to the committees described in subparagraph (B) notice of the following:

(i) The major medical facility project that is the source of the bid savings.

(ii) The major medical facility project for which the Secretary intends to expand the purpose.

(iii) A description of such expansion of purpose.

(iv) The amounts the Secretary intends to obligate to expand the purpose.

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Subchapter II. Procurement and Supply

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SEC. 8127. SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS: CONTRACTING GOALS AND PREFERENCES

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(g) ENFORCEMENT PENALTIES FOR MISREPRESENTATION.—*(1) Any business* [Any business] concern that is determined by the Secretary to have *deliberately* misrepresented the status of that concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans for purposes of this subsection shall be debarred from contracting with the Department for [a reasonable period of time, as determined by the Secretary] *a period of not less than five years*.

(2) In the case of a debarment under paragraph (1), the Secretary shall commence debarment action against the business concern by not later than 30 days after determining that the concern misrepresented the status of the concern as described in paragraph (1) and shall complete debarment actions against such concern by not later than 90 days after such determination.

(3) The debarment of a business concern under paragraph (1) includes the debarment of all principals in the business concern for a period of not less than five years.

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Servicemembers Civil Relief Act

(50 USCS Appx §533(b))

Title 50. War and National Defense

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Title III. Rent, Installment Contracts, Mortgages, Liens, Assignment, Leases, Telephone Service Contracts

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SEC. 533. MORTGAGES AND TRUST DEEDS

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(b) STAY OF PROCEEDINGS AND ADJUSTMENT OF OBLIGATION.—In an action filed during, or [within 9 months] *within 12 months* after, a servicemember's period of military service to enforce an obligation described in subsection (a), the court may after a hearing and on its own motion and shall upon application by a servicemember when the servicemember's ability to comply with the obligation is materially affected by military service—

* * * * * * *

(c) SALE OR FORECLOSURE.—A sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or [within 9 months] *within 12*

months after, the period of the servicemember's military service except—

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Veterans Benefits, Health Care, and Information Technology Act of 2006

(Public Law 109–461)

* * * * * * *

Title VIII. Construction Matters

Subtitle A. Construction and Lease Authorities

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SEC. 802. EXTENSION OF AUTHORIZATION FOR CERTAIN MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS PREVIOUSLY AUTHORIZED IN CONNECTION WITH CAPITAL ASSET REALIGNMENT INITIATIVE

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(11) Construction of a new medical center facility in the Orlando, Florida, area*, including a Simulation, Learning, Education, and Research Network Center,* in an amount not to exceed $377,700,000.

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SEC. 803. AUTHORIZATION OF FISCAL YEAR 2007 MAJOR MEDICAL FACILITY PROJECTS

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(3) Construction of a new clinical addition *and a parking garage* at the Department of Veterans Affairs Medical Center, Fayetteville, Arkansas, in an amount not to exceed **[**$56,163,000**]** *$90,600,000*.

(4) * * *

(5) Medical facility improvements and cemetery expansion of Jefferson Barracks at the Department of Veterans Affairs Medical Center, St. Louis, Missouri, in an amount not to exceed **[**$69,053,000**]** *$346,300,000*.

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Veterans' Mental Health and Other Care Improvements Act of 2008

(Public Law 110–387; 122 Stat. 4137)

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Title VII. Authorization of Medical Facility Projects and Major Medical Facility Leases

SEC. 701. AUTHORIZATION FOR FISCAL YEAR 2009 MAJOR MEDICAL FACILITY PROJECTS.

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(3) Seismic corrections, Building 1, at the Department of Veterans Affairs Medical Center, San Juan, Puerto Rico, in an amount not to exceed **[**$225,900,000**]** *$277,000,000*.

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