Public Law 100-527
100th Congress

An Act

To establish the Veterans' Administration as an executive department, and for other purposes.

Oct. 25, 1988
[H.R. 3471]

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

Department of Veterans Affairs Act.
Government organization and employees.
38 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Act".

38 USC 201 note.

SEC. 2. ESTABLISHMENT OF VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT.

The Veterans' Administration is hereby redesignated as the Department of Veterans Affairs and shall be an executive department in the executive branch of the Government. There shall be at the head of the Department a Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

President of U.S.

SEC. 3. PRINCIPAL OFFICERS.

38 USC 201 note.

(a) DEPUTY SECRETARY.—There shall be in the Department of Veterans Affairs a Deputy Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe.

President of U.S.

(b) CHIEF MEDICAL DIRECTOR.—(1) There shall be in the Department a Chief Medical Director, who shall be a doctor of medicine and shall, subject to subsection (f), be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in the medical profession, in health-care administration and policy formulation, and in health-care fiscal management, and on the basis of substantial experience in connection with the programs of the Veterans Health Services and Research Administration or programs of similar content and scope. The Chief Medical Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Health Services and Research Administration. The Chief Medical Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Medical Director prior to the completion of the term for which the Chief Medical Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

President of U.S.

(2)(A) Whenever a vacancy in the position of Chief Medical Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

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(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing clinical care and medical research and education activities affected by the Veterans Health Services and Research Administration.

(ii) Two persons representing veterans served by the Veterans Health Services and Research Administration.

(iii) Two persons who have experience in the management of veterans health services and research programs, or programs of similar content and scope.

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Special Medical Advisory Group established under section 4112 of title 38, United States Code.

(vi) One person who has held the position of Chief Medical Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Medical Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

President of U.S.

(c) CHIEF BENEFITS DIRECTOR.—(1) There shall be in the Department a Chief Benefits Director, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in fiscal management and the administration of programs within the Veterans Benefits Administration or programs of similar content and scope. The Chief Benefits Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Benefits Administration. The Chief Benefits Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Benefits Director prior to the completion of the term for which the Chief Benefits Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

(2)(A) Whenever a vacancy in the position of Chief Benefits Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing education and training, real estate, mortgage finance, and related industries, and survivor benefits activities affected by the Veterans Benefits Administration.

(ii) Two persons representing veterans served by the Veterans Benefits Administration.

(iii) Two persons who have experience in the management of veterans benefits programs or programs of similar content and scope.

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Veterans' Advisory Committee on Education formed under section 1792 of title 38, United States Code.

(vi) One person who has held the position of Chief Benefits Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Benefits Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

(d) DIRECTOR OF NATIONAL CEMETERY SYSTEM.—There shall be in the Department of Veterans Affairs a Director of the National Cemetery System, who—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; President of U.S.

(2) shall serve as the head of the National Cemetery System provided for in section 1000 of title 38, United States Code; and

(3) shall perform such functions as may be assigned by the Secretary.

(e) CONTINUATION OF SERVICE OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—The individuals serving as Administrator and Deputy Administrator of Veterans' Affairs on the effective date of this Act may act as Secretary and Deputy Secretary of the Department, respectively, until the date an individual is appointed under this Act to the office concerned, or until the end of the 120-day period provided for in section 3348 of title 5, United States Code (relating to limitations on the period of time a vacancy may be filled temporarily), whichever is earlier.

(f) CONTINUATION OF SERVICE OF CHIEF MEDICAL DIRECTOR.—The individual serving as Chief Medical Director on the effective date of this Act may continue to serve in that capacity until the expiration of the term prescribed by section 4103(b)(1) of title 38, United States Code, unless removed by the Secretary of Veterans Affairs for cause in accordance with section 4103(b)(3) of such title.

(g) CONTINUATION OF SERVICE OF CHIEF BENEFITS DIRECTOR.—The individual serving as Chief Benefits Director on the effective date of this Act may continue to serve in that capacity until an individual is appointed under this Act to that office.

(h) CONTINUATION OF SERVICE OF DIRECTOR, NATIONAL CEMETERY SYSTEM.—The individual serving as Director, National Cemetery System on the effective date of this Act may act as the Director of the National Cemetery System until an individual is appointed under this Act to that office.

38 USC 201 note.

SEC. 4. ASSISTANT SECRETARIES.

President of U.S.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Veterans Affairs not more than 6 Assistant Secretaries, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF ASSISTANT SECRETARIES.—The Secretary shall assign to Assistant Secretaries such functions as the Secretary considers appropriate, including the following functions:

(1) Budgetary and financial functions.

(2) Personnel management and labor relations functions.

(3) Planning, studies, and evaluations.

(4) Management, productivity, and logistic support functions.

(5) Information management functions as required by section 3506 of title 44, United States Code.

(6) Capital facilities and real property program functions.

(7) Equal opportunity functions.

(8) Functions regarding the investigation and adjudication of complaints of employment discrimination within the Department.

(9) Functions regarding intergovernmental, public, and consumer information and affairs.

(10) Procurement functions.

(c) CHIEF FINANCIAL OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department.

(2) The Chief Financial Officer shall—

(A) advise the Secretary on financial management of the Department;

(B) develop and maintain a financial management system for the Department (including accounting and related transaction systems, internal control systems, and financial reporting systems) which provides for—

(i) development and maintenance of consistent, compatible, and useful data;

(ii) development and reporting of cost information; and

(iii) integration of accounting and budgeting information;

(C) supervise and coordinate all financial management system activities and operations of the Department; and

(D) direct and manage financial management activities and operations of the Department, including—

(i) the development of financial management budgets; and

(ii) the approval and management of financial management system design or enhancement projects.

(d) CHIEF INFORMATION RESOURCES OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose functions include information management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—

(A) advise the Secretary on information management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 759 of title 40, United States Code;

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained within Department information systems; and

(iv) the development and annual revision of a five-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required by section 3506 of title 44, United States Code. Reports.

(e) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office. President of U.S.

(f) CONTINUING PERFORMANCE OF ASSISTANT SECRETARY FUNCTIONS PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by an Assistant Secretary of the Department may continue to perform such functions until such functions are assigned to an individual appointed under this Act as an Assistant Secretary of the Department.

SEC. 5. DEPUTY ASSISTANT SECRETARIES. 38 USC 201 note.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Veterans Affairs such number of Deputy Assistant Secretaries, not exceeding 18, as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) MINIMUM NUMBER OF DEPUTY ASSISTANT SECRETARIES WITH CONTINUOUS SERVICE IN CIVIL SERVICE.—(1) At least two-thirds of the number of positions established under subsection (a) and filled under subsection (b) shall be filled by individuals who have at least 5 years of continuous service in the Federal civil service in the executive branch immediately preceding their appointment under subsection (b) as a Deputy Assistant Secretary.

(2) For purposes of determining the continuous service of an individual pursuant to paragraph (1), there shall not be included any service by such individual in a position—

(A) of a confidential, policy-determining, policy-making, or policy-advocating character;

(B) in which such individual served as a noncareer appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5, United States Code; or

(C) to which such individual was appointed by the President, with or without the advice and consent of the Senate.

38 USC 201 note.

SEC. 6. VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION.

The establishment within the Veterans' Administration known as the Department of Medicine and Surgery is hereby redesignated as the Veterans Health Services and Research Administration of the Department of Veterans Affairs.

38 USC 201 note.

SEC. 7. VETERANS BENEFITS ADMINISTRATION.

The establishment within the Veterans' Administration known as the Department of Veterans' Benefits is hereby redesignated as the Veterans Benefits Administration of the Department of Veterans Affairs. The primary function of the Veterans Benefits Administration shall be to administer nonmedical benefits programs which provide assistance to veterans, their dependents, and their survivors.

38 USC 201 note.

SEC. 8. OFFICE OF THE GENERAL COUNSEL.

President of U.S.

(a) IN GENERAL.—There shall be in the Department of Veterans Affairs the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(b) CONTINUATION OF SERVICE OF GENERAL COUNSEL.—The individual serving on the effective date of this Act as the General Counsel of the Veterans' Administration may act as the General Counsel of the Department of Veterans Affairs until a person is appointed under this Act to that office.

38 USC 201 note.

SEC. 9. OFFICE OF THE INSPECTOR GENERAL.

(a) REDESIGNATION.—The Office of Inspector General of the Veterans' Administration, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of Veterans Affairs.

(b) STAFF LEVEL.—(1) The Secretary shall provide for not less than 40 full-time positions in the Office of Inspector General in addition to the number of such positions in that office on the effective date of this Act.

(2) Of the number of additional full-time positions in the Office of Inspector General required by paragraph (1), the Secretary shall provide for one-half by not later than September 30, 1990, and shall provide for the remainder by not later than September 30, 1991.

President of U.S.

(3) The President shall include in the budget transmitted to the Congress for each fiscal year after fiscal year 1989 pursuant to section 1105 of title 31, United States Code, an estimate of the amount for the Office of Inspector General that is sufficient to provide for not less than the number of full-time positions in that office on the effective date of this Act and the additional number of such positions required by paragraph (1) to be provided for by the Secretary.

38 USC 201 note.

SEC. 10. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Veterans' Administration—

(1) to the Administrator of Veterans' Affairs shall be deemed to refer to the Secretary of Veterans Affairs;

(2) to the Veterans' Administration shall be deemed to refer to the Department of Veterans Affairs;

(3) to the Deputy Administrator of Veterans' Affairs shall be deemed to refer to the Deputy Secretary of Veterans Affairs;

(4) to the Chief Medical Director of the Veterans' Administration shall be deemed to refer to the Chief Medical Director of the Department of Veterans Affairs;

(5) to the Department of Medicine and Surgery of the Veterans' Administration shall be deemed to refer to the Veterans Health Services and Research Administration of the Department of Veterans Affairs;

(6) to the Chief Benefits Director of the Veterans' Administration shall be deemed to refer to the Chief Benefits Director of the Department of Veterans Affairs;

(7) to the Department of Veterans' Benefits of the Veterans' Administration shall be deemed to refer to the Veterans Benefits Administration of the Department of Veterans Affairs;

(8) to the Chief Memorial Affairs Director of the Veterans' Administration shall be deemed to refer to the Director of the National Cemetery System of the Department of Veterans Affairs; and

(9) to the Department of Memorial Affairs of the Veterans' Administration shall be deemed to refer to the National Cemetery System of the Department of Veterans Affairs.

SEC. 11. SAVINGS PROVISIONS. 38 USC 201 note.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Veterans' Affairs, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Veterans' Administration; and

(2) which are in effect on the effective date of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending before the Veterans' Administration at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judg-

ments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Veterans' Administration, or by or against any individual in the official capacity of such individual as an officer of the Veterans' Administration, shall abate by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Veterans' Administration shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Veterans Affairs.

(f) COMPENSATION FOR CONTINUED SERVICE.—Any person—

(1) who acts as Secretary or Deputy Secretary of the Department of Veterans Affairs under section 3(e);

(2) who continues to serve as Chief Medical Director or Chief Benefits Director of such department under section 3 (f) or (g), respectively;

(3) who acts as the Director of the National Cemetery System under section 3(h); or

(4) who acts as General Counsel of the Department of Veterans Affairs under section 8(b);

after the effective date of this Act and before the first appointment of a person to such position after such date shall continue to be compensated for so serving or acting at the rate at which such person was compensated before the effective date of this Act.

38 USC 201 note.

SEC. 12. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—(1) Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department of Veterans Affairs which are filled by noncareer appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

(2) For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

(b) LIMITATION ON NUMBER OF SCHEDULE C EMPLOYEES.—The number of positions in the Department of Veterans Affairs which may be excepted from the competitive service, on a temporary or permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

(c) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—(1) Political affiliation or activity may not be taken into account in connection with the appointment of any person to any position in or to perform any service for the Department of Veterans Affairs, or in the assignment or advancement of any employee in the Department.

(2) Paragraph (1) shall not apply to the appointment of any person by the President under this Act, other than the appointment of the Chief Medical Director, the Chief Benefits Director, and the Inspector General of the Department of Veterans Affairs.

SEC. 13. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Veterans Affairs".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Veterans Affairs.".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Veterans Affairs.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Deputy Secretary of Veterans Affairs".

(e) COMPENSATION, LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by striking out "Deputy Administrator of Veterans' Affairs."; and

(2) by adding at the end thereof the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.".

(f) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Veterans' Administration" and inserting in lieu thereof "Inspector General, Department of Veterans Affairs"; and

(2) by adding at the end thereof the following:

"Assistant Secretaries, Department of Veterans Affairs (6).

"General Counsel, Department of Veterans Affairs.

"Director of the National Cemetery System.".

(g) COMPENSATION, LEVEL V.—Section 5316 of title 5, United States Code, is amended—

(1) by striking out "Associate Deputy Administrator of Veterans' Affairs.";

(2) by striking out "Chief Benefits Director, Veterans' Administration.";

(3) by striking out "General Counsel of the Veterans' Administration."; and

(4) by striking out "Director, National Cemetery System, Veterans' Administration.".

(h) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 2(1)— 5 USC app.

(A) by inserting "the Department of Veterans Affairs," after "Transportation,"; and

(B) by striking out "the Veterans' Administration,";

(2) in section 11(1)— 5 USC app.

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans' Affairs,"; and

(B) by striking out "Small Business, or Veterans' Affairs" and inserting in lieu thereof "or Small Business"; and

(3) in section 11(2)—

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans Affairs,"; and

(B) by striking out "the United States Information Agency or the Veterans' Administration" and inserting in lieu thereof "or the United States Information Agency".

(i) NATIONAL CEMETERY SYSTEM.—Section 1000 of title 38, United States Code, is amended in subsection (a) by striking out the second sentence and inserting in lieu thereof the following: "Such system shall be headed by the Director of the National Cemetery System, who shall perform such functions as may be assigned by the Secretary.".

38 USC 201 note.

SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the appropriate committees of the Congress, the Secretary of Veterans Affairs shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to title 38, United States Code, and to other provisions of law, which reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the date of enactment of this Act.

SEC. 15. ADMINISTRATIVE REORGANIZATIONS.

(a) MODIFICATIONS OF COVERAGE.—Section 210(b)(2) of title 38, United States Code, is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) An administrative reorganization described in this subparagraph is an administrative reorganization of—

"(i) a covered field office or facility which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

"(I) by 10 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 15 percent or more; or

"(ii) a covered Central Office unit which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such unit—

"(I) by 25 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such unit during the preceding fiscal year, is 30 percent or more.";

(2) in subparagraph (C)—

(A) by striking out "(C) For" and inserting in lieu thereof "(D) For";

(B) by redesignating division (iii) as division (iv); and

(C) by striking out division (ii) and inserting in lieu thereof the following new divisions:

"(ii) The term 'covered Central Office unit' means an office in the Veterans' Administration's Central Office that is the permanent duty station for 100 or more employees.

"(iii) The term 'covered field office or facility' means a Veterans' Administration office or facility outside the Veterans' Administration Central Office that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic."; and

(3) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) Not less than 30 days before the date on which the implementation of any reorganization described in this subparagraph is to begin, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization. This subparagraph applies to the reorganization of any unit of the Central Office of the Veterans' Administration that is the duty station for more than 25 but less than 100 employees if the reorganization involves a reduction in any fiscal year in the number of full-time equivalent employees with permanent duty station in such unit—

"(i) by 10 percent or more, or

"(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty station in such unit during the preceding fiscal year, is 15 percent or more.".

(b) INAPPLICABILITY OF RESTRICTIONS.—Section 210(b) of title 38, United States Code (as amended by subsection (a)), shall not apply to a reorganization of a unit of the Central Office of the Department of Veterans' Affairs if the reorganization— 38 USC 210 note.

(1) is necessary in order to carry out the provisions of or amendments made by this Act; and

(2) is initiated within 6 months after the effective date of this Act.

(c) CONSTRUCTION.—References to the Administrator of Veterans' Affairs and the Veterans' Administration are used in the amendments made by subsection (a) in order to maintain conformity with the references appearing in the provisions of section 210 of title 38, United States Code, that are not amended by subsection (a). The references appearing in such amendments are subject to the reference rules provided in section 10 of this Act. 38 USC 210 note.

SEC. 16. SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS. 38 USC 201 note.

The authority to make payments or to enter into other obligations under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

SEC. 17. NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION. 5 USC 901 note.

(a) ESTABLISHMENT.—(1) Within 30 days after the effective date of this Act, the President shall make a determination as to whether the national interest would be served by the establishment of a commission to review the structural organization of the executive branch of the Federal Government. If the President makes a determination that such establishment is in the national interest, the President shall transmit to the Congress written notification of his intent to establish the National Commission on Executive Organization under this section. President of U.S.

(2) If the President fails to transmit notification under paragraph (1), this section shall cease to be effective 30 days after the effective date of this Act. Termination date.

(b) MEMBERSHIP OF THE COMMISSION.—A commission established under this section shall be composed of 16 members appointed not later than 90 days after the effective date of this Act. The members shall be appointed as follows:

(1) Six citizens of the United States appointed by the President, one of whom shall be designated by the President to be the President of U.S.

Chairman of the Commission. Not more than four of the members appointed by the President may be from the same political party as the President.

(2) Two members of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(3) One Member of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(4) Two members of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(5) One Member of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(c) RESTRICTIONS ON PAY AND ALLOWANCES.—(1) Except as provided in paragraph (2), members of the Commission shall receive no pay, allowances, or benefits by reason of service on the Commission.

(2) Members of the Commission appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the Federal Government.

(d) FUNCTIONS OF COMMISSION.—The Commission shall examine and make recommendations with respect to—

(1) criteria for use by the President and Congress in evaluating proposals for changes in the structure of the executive branch of the Federal Government, including criteria for use by the President and Congress in evaluating and overseeing Government-sponsored enterprises and Government corporations;

(2) the organization of the executive branch, including the number of departments and the organizational structure of each such department, the advisability of reorganizing or abolishing any such department, and the advisability of establishing any new executive department;

(3) the most effective and practicable structure of the Executive Office of the President for conducting oversight of the executive branch, and criteria for use by such Office in evaluating and overseeing the performance of the executive branch; and

(4) the most effective and practicable structure of the President's cabinet and means of operation of such cabinet, including recommendations concerning the number, composition, and duties of the members of such cabinet.

(e) REPORT.—(1) Not later than 12 months after the completion of appointment of the members of the Commission, the Commission shall submit to the President, the Senate, and the House of Representatives a report which contains a detailed statement of the recommendations of the Commission.

(2) The date on which the report is due may be extended to such date as the President may prescribe in an Executive order, except that such date may not be later than six months after the date on which such report is otherwise due under paragraph (1).

(f) POWERS OF COMMISSION.—(1) The Commission may, for the purpose of carrying out this section, hold such hearings and sit and

act at such times and places, as the Commission considers appropriate.

(2) The Commission may adopt such rules and regulations as may be necessary to establish procedures and to govern the manner of the operation, organization, and personnel of the Commission.

(3)(A) The Commission may request from the head of any department, agency, or other instrumentality of the Federal Government such information as the Commission may require for the purpose of carrying out this section. The head of such department, agency, or instrumentality shall, to the extent otherwise permitted by law, furnish such information to the Commission upon request made by the Chairman.

(B) Upon request of the Chairman of the Commission, the head of any department, agency, or other instrumentality of the Federal Government shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such department, agency, or instrumentality available to the Commission; and

(ii) detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the duties of the Commission under this section.

(4) The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(5) The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the duties of the Commission under this section.

(6) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may appoint, terminate, and fix the pay of an Executive Director and of such additional staff as the Chairman considers appropriate to assist the Commission. The Chairman may fix the pay of personnel appointed under this paragraph without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to the number or classification of employees and to rates of pay), the provisions of such title governing appointments in the competitive service, and any other similar provision of law; except that no rate of pay fixed under this paragraph may exceed a rate equal to the rate of pay payable for grade GS-18 of the General Schedule under section 5332 of such title.

(g) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(h) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (e).

(i) PREPARATION FOR THE COMMISSION.—Not later than 90 days after the effective date of this Act, the Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment shall each submit to the Commission established under this section an index to and synopses of materials of the organization of the official that such official considers useful to the Commission. Subject to laws governing the

Classified information.

disclosure of classified or otherwise restricted information, such materials may include reports, analyses, recommendations, and results of research of such organization.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission not more than $1,500,000 for carrying out this section.

38 USC 201 note.

SEC. 18. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on March 15, 1989.

(b) APPOINTMENT OF SECRETARY.—Notwithstanding any other provision of law or of this Act, the President may, any time after January 21, 1989, appoint an individual to serve as Secretary of the Department of Veterans Affairs.

Approved October 25, 1988.

LEGISLATIVE HISTORY—H.R. 3471 (S. 533):

HOUSE REPORTS: No. 100-435 (Comm. on Government Operations) and No. 100-1036 (Comm. of Conference).
SENATE REPORTS: No. 100-342 accompanying S. 533 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 16, 17, considered and passed House.
Vol. 134 (1988): July 11, S. 533 considered in Senate.
July 12, H.R. 3471 considered and passed Senate, amended, in lieu of S. 533.
Oct. 6, House agreed to conference report.
Oct. 18, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 25, Presidential remarks.