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SENATE

{ REPORT
105-344

AMENDING TITLE 38, UNITED STATES CODE, TO AUTHORIZE ADDITIONAL EDUCATIONAL ASSISTANCE FOR CERTAIN DEPARTMENT OF VETERANS AFFAIRS HEALTH PROFESSIONALS, TO AUTHORIZE MEDICAL FACILITY CONSTRUCTION AND LEASES FOR THE DEPARTMENT, AND FOR OTHER PURPOSES

SEPTEMBER 22, 1998.—Ordered to be printed

Mr. SPECTER, from the Committee on Veterans' Affairs,
submitted the following

REPORT

[To accompany S. 1822]

The Committee on Veterans' Affairs, to which was referred the bill (S. 1822) to authorize the provision of care to veterans treated with nasopharyngeal radium irradiation, having considered the same, reports favorably thereon with an amendment in the form of a substitute and an amendment to the title, and recommends that the bill as amended do pass.

COMMITTEE AMENDMENTS

The amendments are as follows:

Strike out all after the enacting clause as follows:

【That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

【Sec. 2. (a) The Secretary may examine, and include in the Department's Ionizing Radiation Registry Program, any veteran who received nasopharyngeal radium irradiation treatments while serving in the active military, naval, or air service.

【(b) Section 1710 is amended—

【(1) in subsection (a)(2)(F), by inserting “or who received nasopharyngeal radium irradiation treatments,” after “environmental hazard,”; and

【(2) in subsection (e)(1)(B) by inserting “, or a veteran who received nasopharyngeal radium irradiation treatments while serving in the active military, naval, or air service,” after “radiation-exposed veteran”.】

Insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans’ Health Care Improvements Act of 1998”.

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

Sec. 1. Short title; table of contents.

TITLE I—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE

- Sec. 101. Short title.
 Sec. 102. Scholarship program for Department of Veterans Affairs employees receiving education or training in the health professions.
 Sec. 103. Education debt reduction program for Veterans Health Administration health professionals.
 Sec. 104. Repeal of prohibition on payment of tuition loans.
 Sec. 105. Outreach.
 Sec. 106. Conforming amendments.

TITLE II—CONSTRUCTION AUTHORIZATION

- Sec. 201. Authorization of major medical facility projects.
 Sec. 202. Authorization of major medical facility leases.
 Sec. 203. Authorization of appropriations.
 Sec. 204. Increase in threshold for major medical facility leases for purposes of Congressional authorization.
 Sec. 205. Master plan regarding use of Department of Veterans Affairs lands at West Los Angeles Medical Center, California.
 Sec. 206. Name of Department of Veterans Affairs medical center, Aspinwall, Pennsylvania.

TITLE III—MISCELLANEOUS PROVISIONS

- Sec. 301. Health care for veterans who received nasopharyngeal radium irradiation treatment.
 Sec. 302. Extension of eligibility of former members of Selected Reserve for housing loans.
 Sec. 303. Reestablishment of authority to retain certain excess pension amounts for facility expenses.
 Sec. 304. Reestablishment of requirement for reports on exercise of authorities for payment of competitive pay for nurses and other health-care personnel.

TITLE I—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE

SEC. 101. SHORT TITLE.

This title may be cited as the “Department of Veterans Affairs Primary Care Providers Incentive Act of 1998”.

SEC. 102. SCHOLARSHIP PROGRAM FOR DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES RECEIVING EDUCATION OR TRAINING IN THE HEALTH PROFESSIONS.

(a) **PROGRAM AUTHORITY.**—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

“§ 7671. Authority for program

“As part of the Educational Assistance Program, the Secretary shall carry out a scholarship program under this subchapter. The program shall be known as the Department of Veterans Affairs Employee Incentive Scholarship Program (hereinafter in this subchapter referred to as the ‘Program’).

“§ 7672. Eligibility; agreement

“(a) **ELIGIBILITY.**—To be eligible to participate in the Program, an individual—

“(1) must be an eligible Department employee who is accepted for enrollment or enrolled (as described in section 7602 of this title) as a full-time or part-time student in a field of education or training described in subsection (c); and

“(2) must demonstrate financial need, as determined under regulations prescribed by the Secretary.

“(b) **ELIGIBLE DEPARTMENT EMPLOYEES.**—For purposes of subsection (a), an eligible Department employee is any employee of the Department who, as of the date on which the employee submits an application for participation in the Program, has been continuously employed by the Department for not less than two years.

“(c) **QUALIFYING FIELDS OF EDUCATION OR TRAINING.**—A scholarship may be awarded under the Program only for education and training in a field leading to appointment or retention in a position under section 7401 of this title.

“(d) **PREFERENCE IN AWARD OF SCHOLARSHIPS.**—(1) Notwithstanding section 7603(d) of this title and subject to paragraph (2), in selecting participants in the Program, the Secretary shall give preference to the following applicants, in the order specified:

“(A) Applicants who are or will be pursuing a course of education or training in a field relating to the provision of primary care health services, as designated by the Secretary.

“(B) Applicants who are employed at Department health-care facilities located in rural areas or at which there is an inadequate supply of individuals qualified to hold a position under section 7401 of this title, as so designated.

“(2) In the case of a pool of applicants covered by subparagraph (A) or (B) of paragraph (1), the Secretary shall give preference in the award of scholarships to the members of the pool who have the greatest financial need.

“(3) The Secretary shall maintain, and update periodically, a list setting forth—
“(A) the fields of education or training covered by subparagraph (A) of paragraph (1); and

“(B) the facilities covered by subparagraph (B) of that paragraph.

“(e) AGREEMENT.—(1) An agreement between the Secretary and a participant in the Program shall (in addition to the requirements set forth in section 7604 of this title) include the following:

“(A) The Secretary’s agreement to provide the participant with a scholarship under the Program for a specified number (from one to three) of school years during which the participant pursues a course of education or training described in subsection (c) that meets the requirements set forth in section 7602(a) of this title.

“(B) The participant’s agreement to serve as a full-time employee in the Veterans Health Administration for a period of time (hereinafter in this subchapter referred to as the ‘period of obligated service’) of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Program, but for not less than two years.

“(C) The participant’s agreement to serve under subparagraph (B) in a Department facility selected by the Secretary.

“(2) In a case in which an extension is granted under section 7673(c)(2) of this title, the number of years for which a scholarship may be provided under the Program shall be the number of school years provided for as a result of the extension.

“(3) In the case of a participant who is a part-time student—

“(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

“(B) the agreement shall include the participant’s agreement to maintain employment, while enrolled in such course of education or training, as a Department employee permanently assigned to a Department health-care facility.

“§ 7673. Scholarship

“(a) SCHOLARSHIP.—A scholarship provided to a participant in the Program for a school year shall consist of payment of the tuition of the participant for that school year and payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year.

“(b) AMOUNTS.—The total amount of the scholarship payable under subsection (a)—

“(1) in the case of a participant in the Program who is a full-time student, may not exceed \$10,000 for any one year; and

“(2) in the case of a participant in the Program who is a part-time student, shall be the amount specified in paragraph (1) reduced in accordance with the proportion that the number of credit hours carried by the participant in that school year bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant.

“(c) LIMITATION ON YEARS OF PAYMENT.—(1) Subject to paragraph (2), a participant in the Program may not receive a scholarship under subsection (a) for more than three school years.

“(2) The Secretary may extend the number of school years for which a scholarship may be awarded to a participant in the Program who is a part-time student to a maximum of six school years if the Secretary determines that the extension would be in the best interest of the United States.

“(d) PAYMENT OF EDUCATIONAL EXPENSES BY EDUCATIONAL INSTITUTIONS.—The Secretary may arrange with an educational institution in which a participant in the Program is enrolled for the payment of the educational expenses described in subsection (a). Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

“§ 7674. Status of certain participants

“(a) STATUS.—A participant in the Program described in subsection (b) shall not, by reason of such participation—

“(1) be considered an employee of the Federal Government; or

“(2) be counted against any personnel ceiling affecting the Veterans Health Administration.

“(b) COVERED PARTICIPANTS.—Subsection (a) applies in the case of any participant in the Program who is a student on a full-time basis and is not performing service for the Department.

“§ 7675. Obligated service

“(a) IN GENERAL.—Each participant in the Program shall provide service as a full-time employee of the Department for the period of obligated service provided in the agreement of the participant entered into under section 7603 of this title. Such service shall be provided in the full-time clinical practice of such participant’s profession or in another health-care position in an assignment or location determined by the Secretary.

“(b) DETERMINATION OF SERVICE COMMENCEMENT DATE.—(1) Not later than 60 days before a participant’s service commencement date, the Secretary shall notify the participant of that service commencement date. That date is the date for the beginning of the participant’s period of obligated service.

“(2) As soon as possible after a participant’s service commencement date, the Secretary shall—

“(A) in the case of a participant who is not a full-time employee in the Veterans Health Administration, appoint the participant as such an employee; and

“(B) in the case of a participant who is an employee in the Veterans Health Administration but is not serving in a position for which the participant’s course of education or training prepared the participant, assign the participant to such a position.

“(3)(A) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant’s service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State.

“(B) In the case of a participant receiving a degree from a school of nursing, the participant’s service commencement date is the later of—

“(i) the participant’s course completion date; or

“(ii) the date upon which the participant becomes licensed as a registered nurse in a State.

“(C) In the case of a participant not covered by subparagraph (A) or (B), the participant’s service commencement date is the later of—

“(i) the participant’s course completion date; or

“(ii) the date the participant meets any applicable licensure or certification requirements.

“(4) The Secretary shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3).

“(c) COMMENCEMENT OF OBLIGATED SERVICE.—(1) Except as provided in paragraph (2), a participant in the Program shall be considered to have begun serving the participant’s period of obligated service—

“(A) on the date, after the participant’s course completion date, on which the participant (in accordance with subsection (b)) is appointed as a full-time employee in the Veterans Health Administration; or

“(B) if the participant is a full-time employee in the Veterans Health Administration on such course completion date, on the date thereafter on which the participant is assigned to a position for which the participant’s course of training prepared the participant.

“(2) A participant in the Program who on the participant’s course completion date is a full-time employee in the Veterans Health Administration serving in a capacity for which the participant’s course of training prepared the participant shall be considered to have begun serving the participant’s period of obligated service on such course completion date.

“(d) COURSE COMPLETION DATE DEFINED.—In this section, the term ‘course completion date’ means the date on which a participant in the Program completes the participant’s course of education or training under the Program.

“§ 7676. Breach of agreement: liability

“(a) LIQUIDATED DAMAGES.—A participant in the Program (other than a participant described in subsection (b)) who fails to accept payment, or instructs the edu-

educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 7603 of this title shall be liable to the United States for liquidated damages in the amount of \$1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

“(b) LIABILITY DURING COURSE OF EDUCATION OR TRAINING.—(1) Except as provided in subsection (d), a participant in the Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

“(A) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Secretary).

“(B) The participant is dismissed from such educational institution for disciplinary reasons.

“(C) The participant voluntarily terminates the course of education or training in such educational institution before the completion of such course of education or training.

“(D) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Secretary.

“(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.

“(2) Liability under this subsection is in lieu of any service obligation arising under a participant’s agreement.

“(c) LIABILITY DURING PERIOD OF OBLIGATED SERVICE.—(1) Except as provided in subsection (d), if a participant in the Program breaches the agreement by failing for any reason to complete such participant’s period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A = 3\Phi \frac{(t - s)}{s}$$

“(2) In such formula:

“(A) ‘A’ is the amount the United States is entitled to recover.

“(B) ‘F’ is the sum of—

“(i) the amounts paid under this subchapter to or on behalf of the participant; and

“(ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

“(C) ‘t’ is the total number of months in the participant’s period of obligated service, including any additional period of obligated service in accordance with section 7673(c)(2) of this title.

“(D) ‘s’ is the number of months of such period served by the participant in accordance with section 7673 of this title.

“(d) LIMITATION ON LIABILITY FOR REDUCTIONS-IN-FORCE.—Liability shall not arise under subsection (b)(1)(E) or (c) in the case of a participant otherwise covered by the subsection concerned if the participant fails to maintain employment as a Department employee due to a reduction-in-force.

“(e) PERIOD FOR PAYMENT OF DAMAGES.—Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

“§ 7677. Expiration of program

“The Secretary may not furnish scholarships to individuals who commence participation in the Program after December 31, 2001.”

(2) The table of sections at the beginning of chapter 76 of title 38, United States Code, is amended by adding at the end the following:

“SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

- “7671. Authority for program.
- “7672. Eligibility; agreement.
- “7673. Scholarship.
- “7674. Status of certain participants.
- “7675. Obligated service.
- “7676. Breach of agreement: liability.
- “7677. Expiration of program.”.

(b) REGULATIONS.—The Secretary of Veterans Affairs may treat regulations prescribed subchapter II of chapter 76 of title 38, United States Code, as regulations required under subchapter VI of that chapter, as added by subsection (a), but only to the extent that the regulations prescribed under such subchapter II are not inconsistent with the provisions of such subchapter VI.

SEC. 103. EDUCATION DEBT REDUCTION PROGRAM FOR VETERANS HEALTH ADMINISTRATION HEALTH PROFESSIONALS.

(a) PROGRAM AUTHORITY.—Chapter 76 of title 38, United States Code (as amended by section 102), is further amended by adding after subchapter VI the following new subchapter:

“SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

“§ 7681. Authority for program

“(a) IN GENERAL.—(1) As part of the Educational Assistance Program, the Secretary may carry out an education debt reduction program under this subchapter. The program shall be known as the Department of Veterans Affairs Primary Care Workers Education Debt Reduction Program (hereinafter in this subchapter referred to as the ‘Education Debt Reduction Program’).

“(2) The purpose of the Education Debt Reduction Program is to assist personnel serving in health-care positions in the Veterans Health Administration in reducing the amount of debt incurred by such personnel in completing programs of education or training that qualified such personnel for such service.

“(b) RELATIONSHIP TO EDUCATIONAL ASSISTANCE PROGRAM.—Education debt reduction payments under the Education Debt Reduction Program shall be in addition to other assistance available to individuals under the Educational Assistance Program.

“§ 7682. Eligibility

“(a) ELIGIBILITY.—An individual eligible to participate in the Education Debt Reduction Program is any individual who—

“(1) is serving in a position in the Veterans Health Administration under an appointment under section 7402(b) of this title; and

“(2) owes any amount of principal or interest under a loan the proceeds of which were used by or on behalf of the individual to pay costs relating to a course of education or training which led to a degree that qualified the individual for a position referred to in paragraph (1).

“(b) COVERED COSTS.—For purposes of subsection (a)(2), costs relating to a course of education or training include—

“(1) tuition expenses;

“(2) all other reasonable educational expenses, including expenses for fees, books, and laboratory expenses; and

“(3) reasonable living expenses.

“§ 7683. Preference

“(a) PREFERENCE.—Notwithstanding section 7603(d) of this title, in selecting individuals for education debt reduction payments under the Education Debt Reduction Program, the Secretary shall give preference to the following (in the order specified):

“(1) Individuals recently appointed by the Secretary to positions under section 7401 of this title in fields relating to primary care health services, as designated by the Secretary.

“(2) Individuals recently appointed by the Secretary to positions under such section in areas in which the recruitment or retention of an adequate supply of qualified health-care personnel is difficult, as so designated.

“(3) Any other individuals serving in appointments to positions described in paragraphs (1) and (2).

“(b) RECENTLY APPOINTED INDIVIDUALS.—An individual shall be treated as recently appointed to a position for purposes of subsection (a) if the individual was appointed to the position not more than 6 months before the date of treatment for such purposes.

“§ 7684. Education debt reduction

“(a) IN GENERAL.—Education debt reduction payments under the Education Debt Reduction Program shall consist of payments to individuals selected to participate in the program of amounts to reimburse such individuals for payments by such individuals of principal and interest on loans described in section 7682(a)(2) of this title.

“(b) FREQUENCY OF PAYMENT.—(1) The Secretary may make education debt reduction payments to any given participant in the Education Debt Reduction Program on a monthly or annual basis, at the election of the Secretary.

“(2) The Secretary shall make such payments at the end of the period elected by the Secretary under paragraph (1).

“(c) PERFORMANCE REQUIREMENT.—The Secretary may make education debt reduction payments to a participant in the Education Debt Reduction Program for a period only if the Secretary determines that the individual maintained an acceptable level of performance in the position or positions served by the participant during the period.

“(d) MAXIMUM ANNUAL AMOUNT.—(1) Subject to paragraph (2), the total amount of education debt reduction payments made to a participant for a year under the Education Debt Reduction Program shall be—

“(A) \$6,000 for the first year of the participant’s participation in such Program;

“(B) \$8,000 for the second year of the participant’s participation in such Program; and

“(C) \$10,000 for the third year of the participant’s participation in such Program.

“(2) The total amount payable to a participant in such Program for any year may not exceed the amount of the principle and interest on loans referred to in subsection (a) that is paid by the individual during such year.

“§ 7685. Expiration of program

“The Secretary may not make education debt reduction payments to individuals who commence participation in the Education Debt Reduction Program after December 31, 2001.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 76 of title 38, United States Code (as amended by section 102(b)), is further amended by adding at the end the following:

“SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

“7681. Authority for program.

“7682. Eligibility.

“7683. Preference.

“7684. Education debt reduction.

“7685. Expiration of program.”

SEC. 104. REPEAL OF PROHIBITION ON PAYMENT OF TUITION LOANS.

Section 523(b) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4959; 38 U.S.C. 7601 note) is repealed.

SEC. 105. OUTREACH.

The Secretary of Veterans Affairs shall take appropriate actions to notify employees of the Department of Veterans Affairs of the benefits available under the Department of Veterans Affairs Employee Incentive Scholarship Program under subchapter VI of chapter 76 of title 38, United States Code (as added by section 102), and under the Department of Veterans Affairs Primary Care Workers Education Debt Reduction Program under subchapter VII of that chapter (as added by section 103).

SEC. 106. CONFORMING AMENDMENTS.

Chapter 76 of title 38, United States Code (as amended by this title), is further amended as follows:

(1) In section 7601(a)—

(A) by striking out “and” at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

“(4) the employee incentive scholarship program provided for in subchapter VI of this chapter; and”; and

“(5) the education debt reduction program provided for in subchapter VII of this chapter.”

(2) In section 7602—

(A) in subsection (a)(1)—

- (i) by striking out “subchapter I or II” and inserting in lieu thereof “subchapter II, III, or VI”;
 - (ii) by striking out “or for which” and inserting in lieu thereof “, for which”; and
 - (iii) by inserting before the period at the end the following: “, or for which a scholarship may be awarded under subchapter VI of this chapter, as the case may be”; and
 - (B) in subsection (b), by striking out “subchapter I or II” and inserting in lieu thereof “subchapter II, III, or VI”.
- (3) In section 7603—
- (A) in subsection (a)—
 - (i) by striking out “To apply to participate in the Educational Assistance Program,” and inserting in lieu thereof “(1) To apply to participate in the Educational Assistance Program under subsection II, III, V, or VI of this chapter,”; and
 - (ii) by adding at the end the following:

“(2) To apply to participate in the Educational Assistance Program under subchapter VII of this chapter, an individual shall submit to the Secretary an application for such participation.”; and
 - (B) in subsection (b)(1), by inserting “(if required)” before the period at the end.
- (4) In section 7604, by striking out “subchapter II, III, or V” each place it appears in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof “subchapter II, III, V, or VI”.
- (5) In section 7632—
- (A) in paragraph (1)—
 - (i) by striking out “and the Tuition Reimbursement Program” and inserting in lieu thereof “, the Tuition Reimbursement Program, the Employee Incentive Scholarship Program, and the Education Debt Reduction Program”; and
 - (ii) by inserting “(if any)” after “number of students”;
 - (B) in paragraph (2), by inserting “(if any)” after “education institutions”; and
 - (C) in paragraph (4)—
 - (i) by striking “and per participant” and inserting in lieu thereof “, per participant”; and
 - (ii) by inserting “, per participant in the Employee Incentive Scholarship Program, and per participant in the Education Debt Reduction Program” before the period at the end.
- (6) In section 7636, by striking “or a stipend” and inserting “a stipend, or education debt reduction”.

TITLE II—CONSTRUCTION AUTHORIZATION

SEC. 201. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

- (1) Clinical consolidations and seismic corrections at the Department of Veterans Affairs medical center in Long Beach, California, in an amount not to exceed \$23,200,000.
- (2) Seismic corrections at the Department of Veterans Affairs medical center in San Juan, Puerto Rico, in an amount not to exceed \$50,000,000.
- (3) Nursing home care unit renovations in Lebanon, Pennsylvania, in an amount not to exceed \$9,500,000.
- (4) Construction of a parking structure at the Department of Veterans Affairs medical center in Denver, Colorado, in an amount not to exceed \$13,000,000, to be derived only from funds appropriated for the Parking Revolving Fund for a fiscal year before fiscal year 1999 that remain available for obligation.
- (5) Outpatient clinic projects at Auburn, California, and Merced California, as part of the Northern California Healthcare Systems Project, in an amount not to exceed \$3,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1999 that remain available for obligation.

SEC. 202. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

- (1) Lease of a satellite outpatient clinic in Baton Rouge, Louisiana, in an amount not to exceed \$1,792,500.
- (2) Lease of a satellite outpatient clinic in Daytona Beach, Florida, in an amount not to exceed \$2,573,300.
- (3) Lease of a satellite outpatient clinic in Oakland Park, Florida, in an amount not to exceed \$4,008,600.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1999—

- (1) for the Construction, Major Projects account, \$82,700,000 for the projects authorized in paragraphs (1), (2), and (3) of section 201; and
- (2) for the Medical Care account, \$8,374,400 for the leases authorized in section 202.

(b) LIMITATION.—The projects authorized in section 201 may only be carried out using—

- (1) funds appropriated for fiscal year 1999 pursuant to the authorization of appropriations in subsection (a);
- (2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1999 that remain available for obligation;
- (3) funds appropriated for the Parking Revolving Fund for a fiscal year before fiscal year 1999 that remain available for obligation; and
- (4) funds appropriated for Construction, Major Projects for fiscal year 1999 for a category of activity not specific to a project.

SEC. 204. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY LEASES FOR PURPOSES OF CONGRESSIONAL AUTHORIZATION.

Section 8104(a)(3)(B) of title 38, United States Code, is amended by striking out “\$300,000” and inserting in lieu thereof “\$600,000”.

SEC. 205. MASTER PLAN REGARDING USE OF DEPARTMENT OF VETERANS AFFAIRS LANDS AT WEST LOS ANGELES MEDICAL CENTER, CALIFORNIA.

(a) REPORT.—The Secretary of Veterans Affairs shall submit to Congress a report on the master plan of the Department of Veterans Affairs relating to the use of Department lands at the West Los Angeles Department of Veterans Affairs Medical Center, California.

(b) REPORT ELEMENTS.—The report under subsection (a) shall set forth the following:

- (1) The master plan referred to in that subsection, if such plan currently exists.
- (2) A current assessment of the master plan.
- (3) Any proposals of the Department for a veterans park on the lands referred to in subsection (a), and an assessment of such proposals.
- (4) Any proposals to use a portion of such lands as dedicated green space, and an assessment of such proposals.

(c) ALTERNATIVE ELEMENT.—If the master plan referred to in subsection (a) does not exist as of the date of enactment of this Act, the Secretary shall set forth in the report under that subsection, in lieu of the elements required under paragraphs (1) and (2) of subsection (b), a plan for the development of a master plan for the use of the lands referred to in subsection (a) over the next 25 years and over the next 50 years.

SEC. 206. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, ASPINWALL, PENNSYLVANIA.

The Department of Veterans Affairs medical center in Aspinwall, Pennsylvania, shall be known and designated as the “H. John Heinz III Department of Veterans Affairs Medical Center”. Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the H. John Heinz III Department of Veterans Affairs Medical Center.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. HEALTH CARE FOR VETERANS WHO RECEIVED NASOPHARYNGEAL RADIUM IRRADIATION TREATMENT.

(a) **AUTHORITY TO PROVIDE CARE.**—Section 1710 of title 38, United States Code, is amended—

(1) in subsection (a)(2)(F), by inserting “or who received nasopharyngeal radium irradiation treatments,” after “or other conditions,”; and

(2) in subsection (e)(1)(B), by inserting “, or a veteran who received nasopharyngeal radium irradiation treatments while serving in the active military, naval, or air service,” after “radiation-exposed veteran”.

(b) **INCLUSION IN IONIZING RADIATION REGISTRY PROGRAM.**—The Secretary of Veterans Affairs may examine and include in the Ionizing Radiation Registry Program of the Department of Veterans Affairs any veteran who received nasopharyngeal radium irradiation treatments while serving in the active military, naval, or air service.

SEC. 302. EXTENSION OF ELIGIBILITY OF FORMER MEMBERS OF SELECTED RESERVE FOR HOUSING LOANS.

Section 3702(a)(2)(E) of title 38, United States Code, is amended by striking out “October 27, 1999” and inserting in lieu thereof “December 31, 2004”.

SEC. 303. REESTABLISHMENT OF AUTHORITY TO RETAIN CERTAIN EXCESS PENSION AMOUNTS FOR FACILITY EXPENSES.

Section 5503(a)(1)(B) of title 38, United States Code, is amended in the second sentence by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 2003”.

SEC. 304. REESTABLISHMENT OF REQUIREMENT FOR REPORTS ON EXERCISE OF AUTHORITIES FOR PAYMENT OF COMPETITIVE PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL.

Section 7451(g) of title 38, United States Code, is amended by striking out “December 1 of 1991, 1992, and 1993” and inserting in lieu thereof “December 1 of 1999, 2000, and 2001”.

Amend the title so as to read:

“A Bill to amend title 38, United States Code, to authorize additional educational assistance for certain Department of Veterans Affairs health professionals, to authorize medical facility construction and leases for the Department, and for other purposes.”.

INTRODUCTION

On March 23, 1998, the Chairman of the Committee, Senator Arlen Specter, introduced S. 1822 with the cosponsorship of the Ranking Minority Member of the Committee, Senator John D. Rockefeller IV, Committee Member Strom Thurmond, Committee Member James M. Jeffords, Committee Member Frank H. Murkowski, Committee Member Daniel K. Akaka, Committee Member Paul Wellstone, Senator Joseph I. Lieberman, and Committee Member Patty Murray. As introduced, S. 1822 would have authorized the provision of medical care by the Department of Veterans Affairs (VA), on a priority basis, to veterans who, while in service, had been treated with nasopharyngeal radium irradiation.

On April 30, 1998, Committee Member Bob Graham introduced S. 2012 with the cosponsorship of Senator Connie Mack. As introduced, S. 2012 would have named the VA medical center in Gainesville, Florida, the “Malcolm Randall Department of Veterans Affairs Medical Center.”

On May 22, 1998, Senator Rockefeller introduced S. 2115 with the cosponsorship of Senator Barbara A. Mikulski. As introduced, S. 2115 would have established scholarship and education loan

debt reduction programs in order to facilitate the employment of primary care and other health care professionals by VA.

On June 17, 1998, Senator Akaka introduced S. 2181. As introduced, S. 2181 would have made permanent the eligibility of certain current and former members of the Selected Reserve to participate in VA housing loan benefits programs.

On April 21, 1998, the Committee held a hearing to receive testimony on pending legislation, including S. 1822. Testimony was received from: the Honorable Kenneth W. Kizer, M.D., M.P.H., Under Secretary for Health, Department of Veterans Affairs; the Honorable Joseph Thompson, Under Secretary for Benefits, Department of Veterans Affairs; Ms. Joan Ma Pierre, Director for Electronics and Systems, Defense Special Weapons Agency, U.S. Department of Defense; Captain Richard L. LaFontaine, USN, U.S. Navy Bureau of Medicine and Surgery; Rosalie Bertell, Ph.D., International Institute of Concern for Public Health, Toronto, Canada; Mr. William J. Brady, Health Physicist; Otto Raabe, Ph.D., University of California, Davis; Richard B. Setlow, Ph.D., Brookhaven National Laboratory; Steve Wing, Ph.D., University of North Carolina; Mr. Tidoro A. Garcia; Mr. James J. Garrity; and Mr. Albert G. Parrish.

COMMITTEE MEETING

After carefully reviewing the testimony from the foregoing hearing, the Committee met in open session on July 28, 1998, and voted unanimously to report S. 1822 with an amendment in the nature of a substitute that includes provisions from S. 1822, as introduced; S. 2012; S. 2115; S. 2181, as amended; an original provision authorizing VA major medical facility construction projects and major medical facility leases; an original provision increasing from \$300,000 to \$600,000 per year the threshold lease payment which will trigger the requirement that a major medical facility lease be authorized by statute; an original provision directing that VA provide to Congress a master plan regarding the use of lands at the VA medical center in West Los Angeles, California; an original provision naming a VA medical center in Aspinwall, Pennsylvania, the "H. John Heinz III VA Medical Center"; an original provision reestablishing VA authority to retain, rather than requiring that VA remit to the Treasury, benefits formerly received by pension-eligible veterans receiving nursing home care by VA; and an original provision reestablishing a requirement that VA report to the Congress regarding competitive pay for registered nurses and certain other health care professionals.

SUMMARY OF S. 1822 AS REPORTED

S. 1822 as reported (hereinafter referred to as the "Committee bill") consists of three titles, summarized below, that would establish a scholarship program and an education loan debt reduction program to facilitate the employment of primary care and other health care professionals by VA; authorize VA major medical facility construction projects and major medical facility leases; increase the threshold lease payment (from \$300,000 to \$600,000 per year) which will trigger the requirement that a major medical facility lease be authorized by statute; require that VA provide to Congress

a master plan regarding the use of lands at the VA medical center in West Los Angeles, California; name VA medical centers in Aspinwall, Pennsylvania, and Gainesville, Florida, the “H. John Heinz III VA Medical Center” and the “Malcolm Randall VA Medical Center” respectively; authorize the provision of medical care by VA, on a priority basis, to veterans who, while in service, had been treated with nasopharyngeal radium irradiation; extend until December 31, 2004, the eligibility of former members of the Selected Reserve to participate in VA housing loan benefits programs; reestablish, until September 30, 2003, an expired provision of law authorizing VA to retain, rather than remit to the Treasury, benefits formerly received by pension-eligible veterans receiving nursing home care by VA; and extend through fiscal year 2001 an expired requirement that VA report to the Congress concerning competitive pay for registered nurses and certain other health care professionals.

TITLE I—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE

Title I contains amendments to title 38, United States Code, that would:

1. Establish a Department of Veterans Affairs Employee Incentive Scholarship Program; provide that health care professionals who have been continuously employed by VA for a period of not less than 2 years, and who demonstrate financial need, will be eligible for incentive scholarships; provide that preferences be given to providers of primary care services, to employees in rural or other areas where there is an inadequate supply of health care professionals, and to persons having the greatest financial need; require that scholarship recipients agree to serve as VA health care professionals for a period of obligated service at the completion of VA-supported training; and specify that scholarship benefits will consist of tuition payments and reasonable educational expenses (not to exceed \$10,000 per year) for a period not to exceed 3 academic years (section 102).
2. Establish a Department of Veterans Affairs Primary Care Workers Education Debt Reduction Program; provide that health care professionals employed by VA would be eligible for debt reduction program participation, with preferences given to recently appointed primary care service providers and to recently appointed health care professionals serving in areas where there is an inadequate supply of health care professionals; and specify that benefits would consist of reimbursement of actual educational debt payments, on a monthly or annual basis, in an amount not to exceed \$6,000 to \$10,000 per year (section 103).
3. Repeal a prohibition on payments to VA health care professionals for repayment of tuition loans (section 104).
4. Direct VA outreach efforts and make appropriate conforming amendments (sections 105 and 106).

TITLE II—CONSTRUCTION AUTHORIZATION

Title II contains freestanding provisions and amendments to title 38, United States Code, that would:

1. Authorize major medical facility construction projects in Long Beach, California; San Juan, Puerto Rico; Lebanon, Pennsylvania; Denver, Colorado; Auburn, California; and Merced, California (section 201).
2. Authorize major medical facility leases in Baton Rouge, Louisiana; Daytona Beach, Florida; and Oakland Park, Florida (section 202).
3. Authorize appropriations for major medical facility construction projects and major medical facility leases for fiscal year 1999 (section 203).
4. Increase the threshold lease payment (from \$300,000 to \$600,000 per year) which would trigger the requirement that a major medical facility lease be authorized by statute (section 204).
5. Require that VA provide to Congress a master plan regarding the use of lands at the VA medical center in West Los Angeles, California (section 205).
6. Name the VA medical center in Aspinwall, Pennsylvania, the “H. John Heinz III Department of Veterans Affairs Medical Center” (section 206).
7. Name the VA medical center in Gainesville, Florida, the “Malcolm Randall Department of Veterans Affairs Medical Center” (section 207).

TITLE III—MISCELLANEOUS PROVISIONS

Title III contains amendments to title 38, United States Code, that would:

1. Authorize VA to provide health care services, on a priority basis, to veterans who, while in service, had been treated with nasopharyngeal radium irradiation (section 301).
2. Extend until December 31, 2004, the eligibility of former members of the Selected Reserve to participate in VA housing loan benefits programs (section 302).
3. Reestablish until September 30, 2003, an expired provision of law authorizing VA to retain, rather than remit to the Treasury, benefits formerly received by pension-eligible veterans receiving nursing home care by VA (section 303).
4. Reestablish through fiscal year 2001 an expired requirement that VA report to the Congress concerning competitive pay for registered nurses and certain other health care professionals (section 304).

DISCUSSION

TITLE I—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE

Title I of the Committee bill, which is derived from S. 2115, would establish as part of VA’s Educational Assistance Program an Employee Incentive Scholarship Program and a Primary Care Workers Education Debt Reduction Program in order to facilitate

the recruitment and retention of primary health care service providers by VA.

Background

Under current law, VA administers three programs as part of its Health Professional Educational Assistance Program: a Health Professional Scholarship Program; a Nurse Education Tuition Reimbursement Program; and a stipend program for members of the Selected Reserves.

Under the Health Professional Scholarship Program, VA provides educational assistance to program participants in the form of full tuition payments, and the payment of reasonable educational expenses and a stipend. In return, program participants must agree to serve as VA-appointed health care professionals for a period of obligated service. The period of obligated service is equal to the number of years of training supported by VA. Students pursuing degrees in medicine, dentistry, podiatry, optometry, nursing (including licensed practical nursing and vocational nursing), psychology, and respiratory and physical therapy are eligible for program participation; persons enrolled in physician assistant and expanded function dental auxiliary programs are also eligible.

VA's Nurse Education Tuition Reimbursement Program provides tuition reimbursement support to full-time VA employees pursuing nursing degrees. In exchange for such support, program participants must agree to continue to serve as full-time VA employees for a period of 1 year after completion of the course of study.

VA supports former members of the Selected Reserves who seek training in the health professions by providing stipends of \$400 per month in exchange for their agreement to serve as VA employees for a period of obligated service. (Such individuals are otherwise eligible for educational assistance benefits administered by the Department of Defense under chapter 106 of title 10, United States Code; indeed, eligibility for such benefits is a statutory prerequisite for eligibility for VA stipend assistance.)

No funds have been appropriated for VA's Health Professional Educational Assistance Programs since fiscal year 1995.

Committee bill

Section 102. Scholarship Program for Department of Veterans Affairs Employees Receiving Education or Training in the Health Professions.—Section 102 of the Committee bill would establish a Department of Veterans Affairs Employee Incentive Scholarship Program. That program would provide educational assistance in the form of tuition payments and the payment of reasonable educational expenses (not to exceed \$10,000 per year) to VA employees who seek to pursue training in the health professions. VA employees who had served for a period of not less than 2 years and who demonstrate financial need would be eligible for assistance for a period not to exceed 3 academic years and, as is the case with all participants in VA's Health Professional Educational Assistance Program, program participants would be required to agree to serve a period of obligated service after completion of a VA-supported course of study.

Preference would be given to employee applicants seeking training in primary care services and to employees serving in rural or other areas where there is an inadequate supply of health care professionals. Eligible primary care services would include, but not be limited to, nurse practitioners, physician assistants, occupational therapists, physical therapists, and respiratory therapists.

While VA's health care system is, in fact, "downsizing," VA's need for primary care providers, particularly non-physician primary care providers, continues to be unmet. The VA Employee Incentive Scholarship Program would assist in meeting that need while, at the same time, assisting VA in retaining a skilled workforce by improving employee morale and by providing opportunities and incentives for VA employees to upgrade their skills.

Section 103. Education Debt Reduction Program for Veterans Health Administration Health Professionals.—Section 103 of the Committee bill would establish a Department of Veterans Affairs Primary Care Workers Education Debt Reduction Program. That program would provide educational assistance in the form of student loan repayment assistance to VA health care professionals. Participation preference would be given to recently appointed primary care service providers and to recently appointed health care professionals serving in areas where there is an inadequate supply of health care professionals. In specifying such preferences, the Committee intends that the Primary Care Workers Education Debt Reduction Program would serve as a tool to recruit needed primary care providers, particularly non-physician primary care providers.

The Committee notes that the assistance programs created by sections 102 and 103 of the Committee bill are not intended to assist VA nursing staff in meeting educational standards newly required of VA nursing staff. Financial assistance to help nurses meet these requirements should, in the Committee's view, be made available through alternate means.

Section 104. Repeal of Prohibition on Payment of Tuition Loans.—Section 104 of the Committee bill would repeal a provision in current law which prohibits educational assistance in the form of tuition loan repayment assistance. Such a repeal is necessary to put into effect the policies of section 103 of the Committee bill.

Section 105. Outreach.—Section 105 of the Committee bill would direct that VA undertake outreach efforts to notify VA employees of benefits offered under the VA Employee Incentive Scholarship Program and the VA Primary Care Workers Education Debt Reduction Program.

TITLE II—CONSTRUCTION AUTHORIZATION

Title II of the Committee bill contains various freestanding provisions and amendments to title 38, United States Code, relating to real property administration, as outlined below.

Section 201. Authorization of Major Medical Facility Projects.—VA may not expend funds on a "major medical facility project" without prior statutory authorization. 38 U.S.C. § 8104(a)(2). A "major medical facility project" is a construction project that will "involv[e] the total expenditure of more than \$4,000,000." 38 U.S.C. § 8104(a)(3).

By letter dated May 12, 1998, VA requested authorization to proceed with the following major medical facility projects in the amounts specified: a seismic corrections project at the VA medical center in San Juan, Puerto Rico, \$50 million; a clinical improvements and seismic corrections project at the VA medical center in Long Beach, California, \$23.2 million; outpatient clinic projects at Auburn and Merced, California, \$3 million; and a parking structure at the VA medical center in Denver, Colorado, \$13 million.

Section 201 of the Committee bill would authorize each of the requested projects and, in addition, would authorize the appropriation of \$9.5 million for construction of an extended care unit at the VA medical center in Lebanon, Pennsylvania.

Section 202. Authorization of Major Medical Facility Leases.—VA may not expend funds on a “major medical facility lease” without prior statutory authorization. 38 U.S.C. § 8104(a)(2). A “major medical facility lease” is one that will have an average annual rental of more than \$300,000. 38 U.S.C. § 8104(a)(3).

By letter dated May 12, 1998, VA requested authorization to lease space for satellite outpatient clinics at the following locations in the annual rental amounts specified: Oakland Park, Florida, \$4.0 million; Daytona Beach, Florida, \$2.6 million; and Baton Rouge, Louisiana, \$1.8 million.

Section 202 of the Committee bill would authorize each of the requested major medical facility leases.

Section 203. Authorization of Appropriations.—Section 203 of the Committee bill would authorize appropriations for fiscal year 1999 for major medical facility projects in the amount of \$73.2 million, and would authorize for fiscal year 1999 appropriations for major medical facility leases in the amount of \$8.374 million. By letter dated May 12, 1998, VA requested authorizations in those amounts.

Section 204. Increase in Threshold for Major Medical Facility Leases for Purposes of Congressional Authorization.—As noted above, VA may not expend funds on a “major medical facility lease”—that is, one that will have an average annual rental of more than \$300,000—without prior statutory authorization. By letter dated May 12, 1998, VA requested that the \$300,000 annual rent threshold amount be raised to \$1 million.

Section 204 of the Committee bill would raise the threshold amount to \$600,000 per year.

Section 205. Master Plan Regarding Use of Department of Veterans Affairs Lands at the West Los Angeles Medical Center, California.—A civic organization in Los Angeles, California, has proposed that certain acreage on the grounds of the West Los Angeles VA Medical Center be preserved as a park to memorialize deceased veterans. VA has previously been directed to develop a master plan specifying its long-term plans for the development of the West Los Angeles VA Medical Center property.

Section 205 of the Committee bill would direct VA to furnish to the Congress a report on the previously mandated master plan. VA would be required to furnish with that report the previously mandated master plan (and develop such a plan if one has not yet been prepared), a current assessment of that plan, and proposals VA

may have developed for use of land as a veterans memorial park or as dedicated green space.

Section 206. Name of Department of Veterans Affairs Medical Center, Aspinwall, Pennsylvania.—Section 206 of the Committee bill would name the VA medical center in Aspinwall, Pennsylvania, the “H. John Heinz III Department of Veterans Affairs Medical Center” in honor of Senator H. John Heinz III of Pennsylvania. Senator Heinz was killed in a tragic aviation accident on April 4, 1991.

Section 207. Name of Department of Veterans Affairs Medical Center, Gainesville, Florida.—Section 207 of the Committee bill, which is derived from S. 2012, would name the VA medical center in Gainesville, Florida, the “Malcolm Randall Department of Veterans Affairs Medical Center” in honor of the medical center’s recently retired director.

TITLE III—MISCELLANEOUS BENEFITS PROVISIONS

Title III of the Committee bill contains various amendments to title 38, United States Code, as outlined below.

Section 301. Health Care for Veterans Who Received Nasopharyngeal Radium Irradiation Treatment.—All veterans are eligible for VA-provided health care services, but certain veterans have priority access to care on a non-fee basis. Under current law, a veteran who was “exposed to a toxic substance, radiation, or environmental hazard” while in service has priority access for treatment of diseases associated with such an exposure. 38 U.S.C. § 1710(a)(2)(F).

Nasopharyngeal radium irradiation is a treatment modality which was medically accepted in the 1940’s through the early 1960’s, and which involved the insertion of a radium-tipped rod up a patient’s nose. That treatment, which was commonly furnished to aviators and submariners to relieve inner ear maladies associated with pressure changes, is now believed to be associated with certain head and neck cancers.

Section 301 of the Committee bill would add a new class of veteran to the grouping of section 1710(a)(2)(F) veterans who have priority access to VA health care: veterans who, in service, were treated with nasopharyngeal radium irradiation.

Section 302. Extension of Eligibility of Former Members of Selected Reserve for Housing Loans.—VA provides housing loan benefits to persons who meet eligibility criteria specified by statute. See 38 U.S.C. § 3702. Public Law 102–547 provided that, for the period of October 28, 1992, through October 27, 1999, the following persons would be eligible for such benefits: persons who have served in the Selected Reserves for a period of at least 6 years and who continue to serve in the Selected Reserves; persons who, after having served in the Selected Reserves for at least 6 years, have been honorably discharged, been placed on the retired list, or been transferred to the Standby Reserve or the Ready Reserve; and persons who are discharged or released from Selected Reserves because of a service-connected disability prior to serving 6 years. 38 U.S.C. § 3702(a)(2)(E).

Section 302 of the Committee bill, which is derived from S. 2181, would extend the above-summarized Selected Reserves eligibility for VA housing loan benefits until December 31, 2004.

Section 303. Reestablishment of Authority to Retain Certain Excess Pension Amounts for Facility Expenses.—Under current law, a veteran who served during a period of war and who is permanently and totally disabled due to a non-service-connected cause is eligible for pension. Pension benefits are comprised of monthly payments in the amount necessary to bring the disabled veteran's total annual income, including retirement and Social Security benefits, to a level set by statute, e.g., in the case of a veteran with no dependents, \$8665 per year.

Pension-eligible veterans, however, who have no dependents and who have been receiving VA nursing home care for more than a 3-month period are not eligible to receive pension in excess of \$90 per month. 38 U.S.C. § 5503(a)(1)(B). Through September 30, 1997, pension benefits above the \$90 limit ("excess" pension benefits) were deposited into a revolving fund account maintained at the VA medical facility providing nursing home care to assist in defraying the operating expenses of that facility. *Id.* As of October 1, 1997, however, authority to retain excess pension benefits expired and, as a consequence, such funds now revert to the Treasury.

Section 303 of the Committee bill would reestablish VA authority to retain, rather than remit to the Treasury, excess pension benefits formerly received by pension-eligible veterans receiving VA nursing home care. Such authority would, under section 303, expire on September 30, 2003.

Section 304. Reestablishment of Requirement for Reports on Exercise of Authorities for Payment of Competitive Pay for Nurses and Other Health Care Professionals.—For the period 1991–1993, VA was required to submit to Congress reports concerning certain nurse and other health care professional pay issues. See 38 U.S.C. § 7451(g). Generally, VA was required to report on its utilization of special pay provisions, set forth in 38 U.S.C. chapter 74, subchapter IV, which authorize VA to increase pay levels over rates of basic pay otherwise applicable to ensure VA competitiveness in the marketplace for nurses and other health care professionals. Specifically, VA was required to report on its use of the special pay authorities provided by law; its plans to utilize such authorities in the year succeeding the report; VA health professional pay rates, by facility and position; data concerning the numbers of VA health professional employees who had left VA employment; data concerning position vacancies; and other information.

Section 304 of the Committee bill would reestablish the requirement that VA report to the Congress as specified in 38 U.S.C. § 7451(g). Such reports would be due on December 31, 1999, 2000, and 2001.

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 (CBO), estimates that direct spending resulting from the enactment of the Committee bill, as compared to costs under current law and as scored against the current CBO baseline for the first 5 years following enactment, would increase by \$4 million over the period fiscal years 1999 through

2003. The bill would not affect the budgets of State, local, or tribal governments.

The cost estimate provided by CBO, setting forth a detailed breakdown of costs, follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 14, 1998.

Hon. ARLEN SPECTER,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed cost estimate for S. 1822, the Veterans' Health Care Improvements Act of 1998.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

S. 1822—Veterans' Health Care Improvements Act of 1998

Summary: S. 1822 would authorize appropriations for major construction projects and leases at medical facilities of the Department of Veterans Affairs (VA), authorize additional educational assistance for certain VA employees, and make other changes to permanent law. CBO estimates that S. 1822 would result in additional discretionary outlays totaling \$14 million in 1999 and \$117 million over the 1999–2003 period, assuming appropriation of the necessary amounts. In addition, the bill would increase direct spending by \$4 million over the five-year period. Because the bill would affect direct spending, pay-as-you-go procedures would apply.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1822 over the 1999–2003 period is shown in Table 1. The costs of this legislation would fall within budget function 700 (veterans affairs).

TABLE 1. BUDGETARY IMPACT OF S. 1822, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON VETERANS' AFFAIRS

	By fiscal year, in millions of dollars—					
	1998	1999	2000	2001	2002	2003
DIRECT SPENDING						
Estimated budget authority	0	4	-1	-1	-1	3
Estimated outlays	0	4	-1	-1	-1	3
SPENDING SUBJECT TO APPROPRIATION						
Estimated authorization level	0	101	10	10	0	0
Estimated outlays	0	14	22	36	28	17

Direct spending: Direct spending costs would stem from payments from the account that funds veterans' pensions to a VA re-

volving fund and from an extension of housing benefits for reservists.

Pensions: Section 303 would authorize payments from the veterans' pensions account (a mandatory account) to the Medical Facilities Revolving Fund, which could spend the receipts. The amounts transferred would be the difference between the standard monthly pension payments for some veterans receiving nursing home care from the VA and the \$90 monthly payment they receive under provisions scheduled to expire in 2002. The VA would use the transfer to the revolving fund to defray operating expenses at the facility providing the veteran's care. CBO estimates that this section would increase spending by about \$2 million annually, except that costs would total an estimated \$4 million in 1999 because the transfer associated with 1998 pension payments would probably occur in 1999. (See Table 2.)

TABLE 2. DIRECT SPENDING EFFECTS OF S. 1822, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON VETERANS' AFFAIRS
[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
VETERANS' PENSIONS						
Spending under current law for veterans' pensions:						
Estimated Budget Authority	3,045	3,055	3,114	3,140	3,185	3,710
Estimated Outlays	3,037	3,047	3,107	3,138	3,182	3,706
Proposed changes:						
Estimated budget authority	0	4	2	2	2	0
Estimated outlays	0	4	2	2	2	0
Spending under S. 1822 for veterans' pensions:						
Estimated budget authority	3,045	3,059	3,116	3,142	3,187	3,710
Estimated outlays	3,037	3,051	3,109	3,140	3,184	3,706
VETERANS' HOME LOANS						
Spending under current law for veterans' home loans:						
Estimated budget authority	617	112	117	118	118	289
Estimated Outlays	617	112	117	118	118	289
Proposed changes:						
Estimated budget authority	0	0	-3	-3	-3	3
Estimated outlays	0	0	-3	-3	-3	3
Spending under S. 1822 for veterans' home loans:						
Estimated budget authority	617	112	114	115	115	292
Estimated outlays	617	112	114	115	115	292
TOTAL PROPOSED CHANGES						
Proposed changes:						
Estimated budget authority	0	4	-1	-1	-1	3
Estimated outlays	0	4	-1	-1	-1	3

Home loans for reservists: Section 302 would extend the home loan benefits for reservists through December 31, 2004. Under current law, those benefits expire on October 27, 1999. CBO estimates that this provision would increase VA loan guarantees by roughly 7,000 each year. Because origination fees would more than offset the subsidy cost of additional loan guarantees, CBO estimates that the provision would lower net spending by about \$3 million annually through 2002. In 2003 and 2004, however, this provision would cost \$3 million a year because certain fees will expire under current law. In 2005, when this provision would expire, CBO estimates the program would cost about \$1 million.

Spending subject to appropriation: The bill contains several provisions that would affect spending subject to appropriation (see Table 3). CBO assumes appropriation of the authorized amounts by the beginning of each fiscal year. Outlay estimates are based on historical spending patterns.

TABLE 3. DISCRETIONARY SPENDING EFFECTS OF S. 1822, AS ORDERED REPORTED BY THE SENATE VETERANS' AFFAIRS COMMITTEE

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
MAJOR CONSTRUCTION						
Spending under current law:						
Authorization level ¹	209	0	0	0	0	0
Estimated outlays	328	287	209	121	51	9
Proposed changes:						
Authorization level	0	83	0	0	0	0
Estimated outlays	0	(2)	13	26	24	15
Spending under S. 1822:						
Authorization level ²	209	83	0	0	0	0
Estimated outlays	328	288	222	147	75	24
MEDICAL CARE						
Spending under current law:						
Estimated authorization level ^{1,3}	17,739	17,739	17,739	17,739	17,739	17,739
Estimated outlays	17,615	18,122	17,763	17,739	17,739	17,739
Proposed changes:						
Major medical leases:						
Estimated authorization level	0	8	0	0	0	0
Estimated outlays	0	8	1	0	0	0
Educational assistance programs:						
Estimated authorization level	0	10	10	10	0	0
Estimated outlays	0	6	8	10	4	2
Nasopharyngeal irradiation:						
Estimated authorization level	0	(²)	(²)	(²)	(²)	(²)
Estimated outlays	0	(²)	(²)	(²)	(²)	(²)
Subtotal—Proposed changes:						
Estimated authorization level	0	18	10	10	0	0
Estimated outlays	0	14	9	10	4	2
Spending under S. 1822:						
Estimated authorization level ^{1,3}	17,739	17,757	17,749	17,749	17,739	17,739
Estimated outlays	17,615	18,136	17,772	17,749	17,743	17,741
TOTAL PROPOSED CHANGES						
Proposed changes:						
Estimated authorization level	0	101	10	10	0	0
Estimated outlays	0	14	22	36	28	17

¹ The 1998 level is the amount appropriated for that year.

² Costs of less than \$500,000.

³ The current law amounts for 1999-2003 assume that appropriations remain at the 1998 level. If they are adjusted for inflation, the base amounts would rise by about \$600 million a year, but the estimated changes would remain as shown.

Note.—Details may not add to totals because of rounding.

Major construction and leases: Section 203 would authorize appropriations of \$82.7 million to complete several projects that are specified in the bill. The bill would also authorize appropriations of \$8.4 million for leasing agreements for three satellite outpatient clinics. In addition, the bill would authorize other projects that would not require new appropriations. First, the bill would authorize VA to spend \$13 million to construct a parking structure at the medical center in Denver, Colorado. For this project, VA would be required to use \$13 million from balances in the Parking Revolving Fund. Second, the bill would authorize VA to use \$3 million in unobligated balances to build ambulatory care facilities. The funding

would be derived from amounts appropriated for fiscal years beginning before 1999 and that remain available for obligation. CBO estimates that these authorizations of spending from existing balances would have no budgetary impact because the annual spending for the newly authorized projects would not differ significantly from spending that would occur under current law.

Educational assistance programs: Sections 102 and 103 would create two additional educational assistance programs for certain employees of VA. One would provide scholarships up to \$10,000 a year for three years to employees pursuing medical education or training in certain fields, and the other would reimburse employees for health-related educational loans up to a specified amount, depending on how many years the employee participated in the program. The programs would be available to employees who would be accepted into them by December 31, 2001.

CBO estimates that outlays for those programs would be \$6 million in 1999 and \$30 million over the 1999–2003 period, assuming appropriation of the necessary funds. Even though the VA would not be able to select new employees after 2001, it might have commitments to the employees accepted into the programs by then. This estimate assumes the annual cost of both programs would equal the amount provided in S. 2168, the 1999 appropriations bill for the VA, as passed by the Senate on July 17, 1998. However, S. 1822 does not specify funding or limit the size of the programs; therefore, the annual cost could be higher after 1999, particularly if the VA uses its entire appropriation to cover one year of assistance for participating employees and then adds new cohorts in the following years. For this estimate, CBO assumes that the VA would structure the programs so that it covers the total multiyear cost of its commitments with the appropriation in any given year.

Veterans treated with nasopharyngeal radium therapy: Section 301 would grant priority access to hospital, medical, and nursing home care to veterans who were given nasopharyngeal radium irradiation treatments while on active duty. Those veterans would be placed in the same priority category as veterans exposed to nuclear radiation. Under current law, veterans exposed to nuclear radiation may receive priority care for certain diseases specified in law or by the VA, namely for cancers and leukemia.

According to data presented at a workshop sponsored by the Centers for Disease Control, 8,000 to 20,000 veterans were treated with nasopharyngeal radium irradiation. CBO assumes that 14,000 veterans were exposed and that because most exposures occurred during or shortly after World War II, about 6,000 are alive today. Based on epidemiologic data from the National Cancer Institute and the likelihood that some of these veterans already qualify for benefits, CBO estimates that about 200 veterans would become eligible for health care from the VA. Finally, data from the 1992 Survey of Veterans suggests that very few of these veterans would seek care from the VA because their incomes and eligibility for Medicare coverage would lead them to other sources of care. Thus, CBO estimates that section 301 would cost less than \$500,000 annually.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for leg-

isolation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars—										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	4	-1	-1	-1	3	3	1	0	0	0
Changes in receipts	Not applicable										

Intergovernmental and private-sector impact: The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On July 14, 1998, CBO prepared an estimate for H.R. 4110 as ordered reported by the House Committee on Veterans' Affairs. Section 302 of S. 1822 and section 402 of H.R. 4110 would extend home loan benefits for reservists and have similar costs, except that the provision in S. 1822 would expire in 2005. Section 303 of S. 1822 and section 406 of H.R. 4110 are similar provisions and have the same estimated budgetary impact.

On April 2, 1998, CBO prepared a cost estimate for H.R. 3603 as ordered reported by the House Committee on Veterans' Affairs. That bill would authorize appropriations of \$214 million for construction and leases of medical facilities.

Estimate prepared by: Federal costs: Shawn Bishop (health), Sunita D'Monte (housing) and Charles Riemann (pensions); Impact on State, local, and tribal governments: Marc Nicole; Impact on the private sector: Rachel Schmidt.

Estimate approved by: Robert A. Sunshine, Deputy 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 on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The Committee finds that the Committee bill would not entail any significant regulation of individuals or businesses or result in any significant 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 July 28, 1998, meeting. On that date, the Committee, by unanimous voice vote, ordered S. 1822, as amended, reported favorably to the Senate.

AGENCY REPORT

On April 21, 1998, Kenneth W. Kizer, M.D., M.P.H., Under Secretary for Health, and Joseph Thompson, Under Secretary for Benefits, Department of Veterans' Affairs, submitted testimony on, among other things, S. 1822. An excerpt from that testimony is reprinted below:

STATEMENT OF DEPARTMENT OF VETERANS' AFFAIRS, APRIL
21, 1998

Mr. Chairman, and Members of the Committee, we are pleased to be here this morning to discuss a number of issues concerning radiation-exposed, or "atomic" veterans. Your invitation letter of April 10, 1998, indicated that today's hearing would focus on the following items or issues: (1) S. 1385, a bill to amend title 38, United States Code, to expand the number of diseases presumed to be service connected with respect to radiation-exposed veterans, introduced by Senator Wellstone; (2) S. 1822, a bill to amend title 38, United States Code, to authorize provision of care to veterans treated with nasopharyngeal radium irradiation, introduced by the Chairman at VA's request; (3) current "dose reconstruction" policies that govern claims for service connection of radiation-related disabilities; and (4) the Federal government's response to the needs of atomic veterans.

* * * * *

S. 1822

Finally, Mr. Chairman, we would like to discuss S. 1822, which would authorize provision of health care to veterans treated with nasopharyngeal radium irradiation. We would like to thank you, Mr. Chairman, and Senator Rockefeller and other Members of the Committee who cosponsored this VA proposal.

S. 1822 would authorize participation in VA's ionizing radiation program by veterans who were treated with nasopharyngeal radium irradiation many years ago. During the 1940s and 1950s, the military administered nasopharyngeal radium treatments to thousands of submariners and air crew members to prevent ear injury during the severe pressure changes they encountered on the job. Scientific study now suggests that treated individuals may be at increased risk for development of head and neck malignancies. It is also possible that the treatment may cause other types of diseases and disorders.

With the current state of knowledge regarding the possible consequences of nasopharyngeal radium treatment, it is appropriate for VA to provide needed health care for cancers and other diseases and disorders that might be associated with such exposure to radiation. Accordingly, our bill would authorize treatment for the same diseases and disorders that the law currently authorizes for veterans

who may have been exposed to ionizing radiation during weapons testing or during the occupation of Japan following World War II. It would also authorize VA to examine any veteran treated with radium irradiation and include any findings in the Department's radiation registry.

Mr. Chairman, that concludes VA's testimony.

CHANGES IN EXISTING LAW MADE BY S. 1822, AS REPORTED

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Committee 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 38, UNITED STATES CODE

* * * * *

PART II—GENERAL BENEFITS

* * * * *

**CHAPTER 17—HOSPITAL, NURSING HOME,
DOMICILIARY, AND MEDICAL CARE**

* * * * *

**SUBCHAPTER II—HOSPITAL, NURSING HOME, OR
DOMICILIARY CARE AND MEDICAL TREATMENT**

§ 1710. Eligibility for hospital, nursing home, and domiciliary care

(a)(1) * * *

* * * * *

(2) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services, and may furnish nursing home care, which the Secretary determines to be needed to any veteran—

(A) * * *

* * * * *

(F) who was exposed to a toxic substance, radiation, or other conditions, *or who received nasopharyngeal radium irradiation treatments*, as provided in subsection (e); or

* * * * *

(e)(1)(A) * * *

(B) A radiation-exposed veteran, *or a veteran who received nasopharyngeal radium irradiation treatments while serving in the active military, naval, or air service*, is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disease suffered by the veteran that is—

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER I—GENERAL

* * * * *

§ 3702. Basic entitlement

(a)(1) * * *

* * * * *

(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

(A) * * *

* * * * *

(E) For the period beginning on October 28, 1992, and ending on **October 27, 1999** *December 31, 2004*, each veteran described in section 3701(b)(5) of this title.

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * *

CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

* * * * *

§ 5503. Hospitalized veterans and estates of incompetent institutionalized veterans

(a)(1)(A) * * *

(B) Except as provided in subparagraph (D) of this paragraph, where any veteran having neither spouse nor child is being furnished nursing home care by the Department, no pension in excess of \$90 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care. Effective through **September 30, 1997** *September 30, 2003*, any amount in excess of \$90 per month to which the veteran would be entitled but for the application of the preceding sentence shall be deposited in a revolving fund at the Department medical facility which furnished the veteran nursing care, and such amount shall be available for obligation without fiscal year limitation to help defray operating expenses of that facility.

* * * * *

PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

* * * * *

CHAPTER 74—VETERANS HEALTH ADMINISTRATION—PERSONNEL

SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

§ 7451. Nurses and other health-care personnel: competitive pay

(a)(1) * * *

* * * * *

(g) Not later than [December 1 of 1991, 1992, and 1993] *December 1 of 1999, 2000, and 2001*, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the exercise of the authorities provided in this section for the preceding fiscal year. Each such report shall include the following:

(1) * * *

* * * * *

CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

SUBCHAPTER I—GENERAL

Sec.
7601. * * *

* * * * *

SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

- 7671. Authority for program.
- 7672. Eligibility; agreement.
- 7673. Scholarship.
- 7674. Status of certain participants.
- 7675. Obligated service.
- 7676. Breach of agreement: liability.
- 7677. Expiration of program.

SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

- 7681. Authority for program.
- 7682. Eligibility.
- 7683. Preference.
- 7684. Education debt reduction.
- 7685. Expiration of program.

SUBCHAPTER I—GENERAL

§ 7601. Establishment of program; purpose

(a) There is hereby established a program to be known as the Department of Veterans Affairs Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the "Educational Assistance Program"). The program consists of—

(1) * * *

(2) the tuition reimbursement program provided for in subchapter III of this chapter; **[and]**

(3) the Selected Reserve member stipend program provided for under subchapter V of this chapter**[.];**

(4) *the employee incentive scholarship program provided for in subchapter VI of this chapter; and*

(5) *the education debt reduction program provided for in subchapter VII of this chapter.*

(b) * * *

§ 7602. Eligibility

(a)(1) To be eligible to participate in the Educational Assistance Program under **[subchapter I or II]** *subchapter II, III, or VI* of this chapter, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Secretary and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter **[or for which]**, *for which* tuition reimbursement may be provided under subchapter III of this chapter, *or for which a scholarship may be awarded under subchapter VI of this chapter, as the case may be.*

(2) * * *

(b) An individual is not eligible to apply to participate in the Educational Assistance Program under **[subchapter I or II]** *subchapter II, III, or VI* of this chapter if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

§ 7603. Application and acceptance

(a) **[To apply to participate in the Educational Assistance Program,]** *(1) To apply to participate in the Educational Assistance Program under subsection II, III, V, or VI of this chapter,* an individual shall submit to the Secretary an application for such participation together with an agreement described in section 7604 of this title under which the participant agrees to serve a period of obligated service in the Veterans Health Administration as provided in the agreement in return for payment of educational assistance as provided in the agreement.

(2) To apply to participate in the Educational Assistance Program under subchapter VII of this chapter, an individual shall submit to the Secretary an application for such participation.

(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Secretary's approval of the individual's application and the Secretary's acceptance of the agreement *(if required).*

* * * * *

§ 7604. Terms of agreement

An agreement between the Secretary and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

(1) The Secretary's agreement—

(A) to provide the participant with educational assistance as authorized in [subchapter II, III, or V] *subchapter II, III, V, or VI* of this chapter and specified in the agreement; and

(B) * * *

(2) The participant's agreement—

(A) * * *

* * * * *

(D) after completion of the course of training, to serve as a full-time employee in the Veterans Health Administration as specified in the agreement in accordance with [subchapter II, III, or V] *subchapter II, III, V, or VI* of this chapter.

* * * * *

(5) Such other terms as are required to be included in the agreement under [subchapter II, III, or V] *subchapter II, III, V, or VI* of this chapter or as the Secretary may require consistent with the provisions of this chapter.

* * * * *

SUBCHAPTER IV—ADMINISTRATIVE MATTERS

* * * * *

§ 7632. Annual report

Not later than March 1 of each year, the Secretary shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program [and the Tuition Reimbursement Program], *the Tuition Reimbursement Program, the Employee Incentive Scholarship Program, and the Education Debt Reduction Program* separately, and the number of students (*if any*) enrolled in each type of health profession training under each program.

(2) The education institutions (*if any*) providing such training to students in each program.

(3) * * *

(4) The average amounts of educational assistance provided per participant in the Scholarship Program [and per participant], *per participant* in the Tuition Reimbursement Program, per participant in the Employee Incentive Scholarship Program, and per participant in the Education Debt Reduction Program.

* * * * *

§ 7636. Exemption of educational assistance payments from taxation

Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition,

education expenses, [or a stipend] a stipend, or education debt reduction under this chapter shall be exempt from taxation.

* * * * *

SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

§ 7671. Authority for program

As part of the Educational Assistance Program, the Secretary shall carry out a scholarship program under this subchapter. The program shall be known as the Department of Veterans Affairs Employee Incentive Scholarship Program (hereinafter in this subchapter referred to as the “Program”).

§ 7672. Eligibility; agreement

(a) *ELIGIBILITY.*—To be eligible to participate in the Program, an individual—

(1) must be an eligible Department employee who is accepted for enrollment or enrolled (as described in section 7602 of this title) as a full-time or part-time student in a field of education or training described in subsection (c); and

(2) must demonstrate financial need, as determined under regulations prescribed by the Secretary.

(b) *ELIGIBLE DEPARTMENT EMPLOYEES.*—For purposes of subsection (a), an eligible Department employee is any employee of the Department who, as of the date on which the employee submits an application for participation in the Program, has been continuously employed by the Department for not less than two years.

(c) *QUALIFYING FIELDS OF EDUCATION OR TRAINING.*—A scholarship may be awarded under the Program only for education and training in a field leading to appointment or retention in a position under section 7401 of this title.

(d) *PREFERENCE IN AWARD OF SCHOLARSHIPS.*—(1) Notwithstanding section 7603(d) of this title and subject to paragraph (2), in selecting participants in the Program, the Secretary shall give preference to the following applicants, in the order specified:

(A) Applicants who are or will be pursuing a course of education or training in a field relating to the provision of primary care health services, as designated by the Secretary.

(B) Applicants who are employed at Department health-care facilities located in rural areas or at which there is an inadequate supply of individuals qualified to hold a position under section 7401 of this title, as so designated.

(2) In the case of a pool of applicants covered by subparagraph (A) or (B) of paragraph (1), the Secretary shall give preference in the award of scholarships to the members of the pool who have the greatest financial need.

(3) The Secretary shall maintain, and update periodically, a list setting forth—

(A) the fields of education or training covered by subparagraph (A) of paragraph (1); and

(B) the facilities covered by subparagraph (B) of that paragraph.

(e) *AGREEMENT.*—(1) *An agreement between the Secretary and a participant in the Program shall (in addition to the requirements set forth in section 7604 of this title) include the following:*

(A) *The Secretary's agreement to provide the participant with a scholarship under the Program for a specified number (from one to three) of school years during which the participant pursues a course of education or training described in subsection (c) that meets the requirements set forth in section 7602(a) of this title.*

(B) *The participant's agreement to serve as a full-time employee in the Veterans Health Administration for a period of time (hereinafter in this subchapter referred to as the "period of obligated service") of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Program, but for not less than two years.*

(C) *The participant's agreement to serve under subparagraph (B) in a Department facility selected by the Secretary.*

(2) *In a case in which an extension is granted under section 7673(c)(2) of this title, the number of years for which a scholarship may be provided under the Program shall be the number of school years provided for as a result of the extension.*

(3) *In the case of a participant who is a part-time student—*

(A) *the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and*

(B) *the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Department employee permanently assigned to a Department health-care facility.*

§ 7673. Scholarship

(a) *SCHOLARSHIP.*—*A scholarship provided to a participant in the Program for a school year shall consist of payment of the tuition of the participant for that school year and payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year.*

(b) *AMOUNTS.*—*The total amount of the scholarship payable under subsection (a)—*

(1) *in the case of a participant in the Program who is a full-time student, may not exceed \$10,000 for any one year; and*

(2) *in the case of a participant in the Program who is a part-time student, shall be the amount specified in paragraph (1) reduced in accordance with the proportion that the number of credit hours carried by the participant in that school year bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant.*

(c) *LIMITATION ON YEARS OF PAYMENT.*—(1) *Subject to paragraph (2), a participant in the Program may not receive a scholarship under subsection (a) for more than three school years.*

(2) *The Secretary may extend the number of school years for which a scholarship may be awarded to a participant in the Program who is a part-time student to a maximum of six school years if the Secretary determines that the extension would be in the best interest of the United States.*

(d) *PAYMENT OF EDUCATIONAL EXPENSES BY EDUCATIONAL INSTITUTIONS.—The Secretary may arrange with an educational institution in which a participant in the Program is enrolled for the payment of the educational expenses described in subsection (a). Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.*

§ 7674. Status of certain participants

(a) *STATUS.—A participant in the Program described in subsection (b) shall not, by reason of such participation—*

- (1) *be considered an employee of the Federal Government; or*
- (2) *be counted against any personnel ceiling affecting the Veterans Health Administration.*

(b) *COVERED PARTICIPANTS.—Subsection (a) applies in the case of any participant in the Program who is a student on a full-time basis and is not performing service for the Department.*

§ 7675. Obligated service

(a) *IN GENERAL.—Each participant in the Program shall provide service as a full-time employee of the Department for the period of obligated service provided in the agreement of the participant entered into under section 7603 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Secretary.*

(b) *DETERMINATION OF SERVICE COMMENCEMENT DATE.—(1) Not later than 60 days before a participant's service commencement date, the Secretary shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.*

(2) *As soon as possible after a participant's service commencement date, the Secretary shall—*

(A) *in the case of a participant who is not a full-time employee in the Veterans Health Administration, appoint the participant as such an employee; and*

(B) *in the case of a participant who is an employee in the Veterans Health Administration but is not serving in a position for which the participant's course of education or training prepared the participant, assign the participant to such a position.*

(3)(A) *In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State.*

(B) *In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of—*

- (i) *the participant's course completion date; or*

(ii) the date upon which the participant becomes licensed as a registered nurse in a State.

(C) In the case of a participant not covered by subparagraph (A) or (B), the participant's service commencement date is the later of—

(i) the participant's course completion date; or

(ii) the date the participant meets any applicable licensure or certification requirements.

(4) The Secretary shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3).

(c) COMMENCEMENT OF OBLIGATED SERVICE.—(1) Except as provided in paragraph (2), a participant in the Program shall be considered to have begun serving the participant's period of obligated service—

(A) on the date, after the participant's course completion date, on which the participant (in accordance with subsection (b)) is appointed as a full-time employee in the Veterans Health Administration; or

(B) if the participant is a full-time employee in the Veterans Health Administration on such course completion date, on the date thereafter on which the participant is assigned to a position for which the participant's course of training prepared the participant.

(2) A participant in the Program who on the participant's course completion date is a full-time employee in the Veterans Health Administration serving in a capacity for which the participant's course of training prepared the participant shall be considered to have begun serving the participant's period of obligated service on such course completion date.

(d) COURSE COMPLETION DATE DEFINED.—In this section, the term "course completion date" means the date on which a participant in the Program completes the participant's course of education or training under the Program.

§ 7676. Breach of agreement: liability

(a) LIQUIDATED DAMAGES.—A participant in the Program (other than a participant described in subsection (b)) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 7603 of this title shall be liable to the United States for liquidated damages in the amount of \$1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

(b) LIABILITY DURING COURSE OF EDUCATION OR TRAINING.—(1) Except as provided in subsection (d), a participant in the Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

(A) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the

participant is enrolled (as determined by the educational institution under regulations prescribed by the Secretary).

(B) The participant is dismissed from such educational institution for disciplinary reasons.

(C) The participant voluntarily terminates the course of education or training in such educational institution before the completion of such course of education or training.

(D) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Secretary.

(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.

(2) Liability under this subsection is in lieu of any service obligation arising under a participant's agreement.

(c) **LIABILITY DURING PERIOD OF OBLIGATED SERVICE.**—(1) Except as provided in subsection (d), if a participant in the Program breaches the agreement by failing for any reason to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A = 3\Phi \frac{(t - s)}{s}$$

(2) In such formula:

(A) "A" is the amount the United States is entitled to recover.

(B) "F" is the sum of—

(i) the amounts paid under this subchapter to or on behalf of the participant; and

(ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(C) "t" is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 7673(c)(2) of this title.

(D) "s" is the number of months of such period served by the participant in accordance with section 7673 of this title.

(d) **LIMITATION ON LIABILITY FOR REDUCTIONS-IN-FORCE.**—Liability shall not arise under subsection (b)(1)(E) or (c) in the case of a participant otherwise covered by the subsection concerned if the participant fails to maintain employment as a Department employee due to a reduction-in-force.

(e) **PERIOD FOR PAYMENT OF DAMAGES.**—Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

§ 7677. Expiration of program

The Secretary may not furnish scholarships to individuals who commence participation in the Program after December 31, 2001.

**SUBCHAPTER VII—EDUCATION DEBT REDUCTION
PROGRAM**

§ 7681. Authority for program

(a) *IN GENERAL.—(1) As part of the Educational Assistance Program, the Secretary may carry out an education debt reduction program under this subchapter. The program shall be known as the Department of Veterans Affairs Primary Care Workers Education Debt Reduction Program (hereinafter in this subchapter referred to as the “Education Debt Reduction Program”).*

(2) *The purpose of the Education Debt Reduction Program is to assist personnel serving in health-care positions in the Veterans Health Administration in reducing the amount of debt incurred by such personnel in completing programs of education or training that qualified such personnel for such service.*

(b) *RELATIONSHIP TO EDUCATIONAL ASSISTANCE PROGRAM.—Education debt reduction payments under the Education Debt Reduction Program shall be in addition to other assistance available to individuals under the Educational Assistance Program.*

§ 7682. Eligibility

(a) *ELIGIBILITY.—An individual eligible to participate in the Education Debt Reduction Program is any individual who—*

(1) *is serving in a position in the Veterans Health Administration under an appointment under section 7402(b) of this title; and*

(2) *owes any amount of principal or interest under a loan the proceeds of which were used by or on behalf of the individual to pay costs relating to a course of education or training which led to a degree that qualified the individual for a position referred to in paragraph (1).*

(b) *COVERED COSTS.—For purposes of subsection (a)(2), costs relating to a course of education or training include—*

(1) *tuition expenses;*

(2) *all other reasonable educational expenses, including expenses for fees, books, and laboratory expenses; and*

(3) *reasonable living expenses.*

§ 7683. Preference

(a) *PREFERENCE.—Notwithstanding section 7603(d) of this title, in selecting individuals for education debt reduction payments under the Education Debt Reduction Program, the Secretary shall give preference to the following (in the order specified):*

(1) *Individuals recently appointed by the Secretary to positions under section 7401 of this title in fields relating to primary care health services, as designated by the Secretary.*

(2) *Individuals recently appointed by the Secretary to positions under such section in areas in which the recruitment or retention of an adequate supply of qualified health-care personnel is difficult, as so designated.*

(3) Any other individuals serving in appointments to positions described in paragraphs (1) and (2).

(b) *RECENTLY APPOINTED INDIVIDUALS.*—An individual shall be treated as recently appointed to a position for purposes of subsection (a) if the individual was appointed to the position not more than 6 months before the date of treatment for such purposes.

§ 7684. Education debt reduction

(a) *IN GENERAL.*—Education debt reduction payments under the Education Debt Reduction Program shall consist of payments to individuals selected to participate in the program of amounts to reimburse such individuals for payments by such individuals of principal and interest on loans described in section 7682(a)(2) of this title.

(b) *FREQUENCY OF PAYMENT.*—(1) The Secretary may make education debt reduction payments to any given participant in the Education Debt Reduction Program on a monthly or annual basis, at the election of the Secretary.

(2) The Secretary shall make such payments at the end of the period elected by the Secretary under paragraph (1).

(c) *PERFORMANCE REQUIREMENT.*—The Secretary may make education debt reduction payments to a participant in the Education Debt Reduction Program for a period only if the Secretary determines that the individual maintained an acceptable level of performance in the position or positions served by the participant during the period.

(d) *MAXIMUM ANNUAL AMOUNT.*—(1) Subject to paragraph (2), the total amount of education debt reduction payments made to a participant for a year under the Education Debt Reduction Program shall be—

(A) \$6,000 for the first year of the participant's participation in such Program;

(B) \$8,000 for the second year of the participant's participation in such Program; and

(C) \$10,000 for the third year of the participant's participation in such Program.

(2) The total amount payable to a participant in such Program for any year may not exceed the amount of the principle and interest on loans referred to in subsection (a) that is paid by the individual during such year.

§ 7685. Expiration of program

The Secretary may not make education debt reduction payments to individuals who commence participation in the Education Debt Reduction Program after December 31, 2001.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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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§ 8104. Congressional approval of certain medical facility acquisitions

(a)(1) * * *

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(3) For the purpose of this subsection:

(A) * * *

(B) The term “major medical facility lease” means a lease for space for use as a new medical facility at an average annual rental of more than ~~【\$300,000】~~ \$600,000.

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VETERANS HEALTH CARE ACT OF 1992

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TITLE V—GENERAL HEALTH CARE AND ADMINISTRATION

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Subtitle C—Health Care Administration and Personnel

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SEC. 523. EXTENSION OF AUTHORITY TO WAIVE CERTAIN LIMITATIONS APPLICABLE TO RECEIPT OF RETIREMENT PAY BY NURSES.

(a) * * *

[(b) HEALTH PROFESSIONALS.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs may not provide payments to health-care professional employees of the Department of Veterans Affairs for payment of tuition loans.]