

## Calendar No. 230

106TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
{ 106-122

---

---

### VETERANS BENEFITS ACT OF 1999

—————  
JULY 27, 1999.—Ordered to be printed  
—————

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

### REPORT

together with

### ADDITIONAL VIEWS

[To accompany S. 1076]

The Committee on Veterans' Affairs, to which was referred a bill (S. 1076) to provide a cost-of-living adjustment in rates of compensation paid to veterans with service-connected disabilities, to enhance programs providing health care, education, and other benefits for veterans, to authorize major medical facility projects, to reform eligibility for burial in Arlington National Cemetery, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill, as amended, do pass.

#### COMMITTEE BILL

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- (a) SHORT TITLE.—This Act may be cited as the "Veterans Benefits Act of 1999".  
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

### TITLE I—MEDICAL CARE

#### Subtitle A—Long-Term Care

Sec. 101. Adult day health care.

Sec. 102. In-home respite care services.

Subtitle B—Management of Medical Facilities and Property

- Sec. 111. Enhanced-use lease authority.  
 Sec. 112. Designation of hospital bed replacement building at Department of Veterans Affairs medical center in Reno, Nevada, after Jack Streeter.

Subtitle C—Homeless Veterans

- Sec. 121. Extension of program of housing assistance for homeless veterans.  
 Sec. 122. Homeless veterans comprehensive service programs.  
 Sec. 123. Authorizations of appropriations for homeless veterans' reintegration projects.  
 Sec. 124. Report on implementation of General Accounting Office recommendations regarding performance measures.

Subtitle D—Other Health Care Provisions

- Sec. 131. Emergency health care in non-Department of Veterans Affairs facilities for enrolled veterans.  
 Sec. 132. Improvement of specialized mental health services for veterans.  
 Sec. 133. Treatment and services for drug or alcohol dependency.  
 Sec. 134. Allocation to Department of Veterans Affairs health care facilities of amounts in Medical Care Collections Fund.  
 Sec. 135. Extension of certain Persian Gulf War authorities.  
 Sec. 136. Report on coordination of procurement of pharmaceuticals and medical supplies by the Department of Veterans Affairs and the Department of Defense.  
 Sec. 137. Reimbursement of medical expenses of veterans located in Alaska.  
 Sec. 138. Repeal of four-year limitation on terms of Under Secretary for Health and Under Secretary for Benefits.

Subtitle E—Major Medical Facility Projects Construction Authorization

- Sec. 141. Authorization of major medical facility projects.

TITLE II—BENEFITS MATTERS

- Sec. 201. Payment rate of certain burial benefits for certain Filipino veterans.  
 Sec. 202. Extension of authority to maintain a regional office in the Republic of the Philippines.  
 Sec. 203. Extension of Advisory Committee on Minority Veterans.  
 Sec. 204. Dependency and indemnity compensation for surviving spouses of former prisoners of war.  
 Sec. 205. Repeal of limitation on payments of benefits to incompetent institutionalized veterans.  
 Sec. 206. Clarification of veterans employment opportunities.

TITLE III—MEMORIAL AFFAIRS

Subtitle A—Arlington National Cemetery

- Sec. 301. Short title.  
 Sec. 302. Persons eligible for burial in Arlington National Cemetery.  
 Sec. 303. Persons eligible for placement in the columbarium in Arlington National Cemetery.

Subtitle B—World War II Memorial

- Sec. 311. Short title.  
 Sec. 312. Fund raising by American Battle Monuments Commission for World War II Memorial.  
 Sec. 313. General authority of American Battle Monuments Commission to solicit and receive contributions.  
 Sec. 314. Intellectual property and related items.

TITLE IV—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

- Sec. 401. Temporary service of certain judges of United States Court of Appeals for Veterans Claims upon expiration of their terms or retirement.  
 Sec. 402. Modified terms for certain judges of United States Court of Appeals for Veterans Claims.  
 Sec. 403. Temporary authority for voluntary separation incentives for certain judges on United States Court of Appeals for Veterans Claims.  
 Sec. 404. Definition.

**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, 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.

**TITLE I—MEDICAL CARE****Subtitle A—Long-Term Care****SEC. 101. ADULT DAY HEALTH CARE.**

Section 1720(f)(1)(A)(i) is amended by striking “subsections (a) through (d) of this section” and inserting “subsections (b) through (d) of this section”.

**SEC. 102. IN-HOME RESPITE CARE SERVICES.**

Section 1720B(b) is amended—

- (1) in the matter preceding paragraph (1), by striking “or nursing home care” and inserting “, nursing home care, or home-based care”; and
- (2) in paragraph (2), by inserting “or in the home of a veteran” after “in a Department facility”.

**Subtitle B—Management of Medical Facilities and Property****SEC. 111. ENHANCED-USE LEASE AUTHORITY.**

(a) **MAXIMUM TERM OF LEASES.**—Section 8162(b)(2) is amended by striking “may not exceed”—and all that follows through the end and inserting “may not exceed 55 years.”

(b) **AVAILABILITY OF FUNDS FOR CERTAIN ACTIVITIES RELATING TO LEASES.**—Section 8162(b)(4) is amended—

- (1) by inserting “(A)” after “(4)”;
- (2) in subparagraph (A), as so designated—
  - (A) in the first sentence, by striking “only”; and
  - (B) by striking the second sentence; and

(3) by adding at the end the following new subparagraph:

“(B) Any payment by the Secretary in contribution to capital activities on property that has been leased under this subchapter may be made from amounts appropriated to the Department for construction, minor projects.”

(c) **EXTENSION OF AUTHORITY.**—Section 8169 is amended by striking “December 31, 2001” and inserting “December 31, 2011”.

(d) **TRAINING AND OUTREACH REGARDING AUTHORITY.**—The Secretary of Veterans Affairs shall take appropriate actions to provide training and outreach to personnel at Department of Veterans Affairs medical centers regarding the enhanced-use lease authority under subchapter V of chapter 81 of title 38, United States Code. The training and outreach shall address methods of approaching potential lessees in the medical or commercial sectors regarding the possibility of entering into leases under that authority and other appropriate matters.

(e) **INDEPENDENT ANALYSIS OF OPPORTUNITIES FOR USE OF AUTHORITY.**—(1) The Secretary shall take appropriate actions to secure from an appropriate entity independent of the Department of Veterans Affairs an analysis of opportunities for the use of the enhanced-use lease authority under subchapter V of chapter 81 of title 38, United States Code.

(2) The analysis under paragraph (1) shall include—

- (A) a survey of the facilities of the Department for purposes of identifying Department property that presents an opportunity for lease under the enhanced-use lease authority;
- (B) an assessment of the feasibility of entering into enhanced-use leases under that authority in the case of any property identified under subparagraph (A) as presenting an opportunity for such lease; and
- (C) an assessment of the resources required at the Department facilities concerned, and at the Department Central Office, in order to facilitate the entering into of enhanced-used leases in the case of property so identified.

(3) If as a result of the survey under paragraph (2)(A) the entity determines that a particular Department property presents no opportunities for lease under the enhanced-use lease authority, the analysis shall include the entity’s explanation of that determination.

(4) If as a result of the survey the entity determines that certain Department property presents an opportunity for lease under the enhanced-use lease authority, the analysis shall include a single integrated business plan, developed by the entity, that addresses the strategy and resources necessary to implement the plan for all property determined to present an opportunity for such lease.

(f) **AUTHORITY FOR ENHANCED-USE LEASE OF PROPERTY UNDER BUSINESS PLAN.**—(1) The Secretary may enter into an enhanced-use lease of any property identified as presenting an opportunity for such lease under the analysis under subsection (e) if such lease is consistent with the business plan under paragraph (4) of that subsection.

(2) The provisions of subchapter V of chapter 81 of title 38, United States Code, shall apply with respect to any lease under paragraph (1).

**SEC. 112. DESIGNATION OF HOSPITAL BED REPLACEMENT BUILDING AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN RENO, NEVADA, AFTER JACK STREETER.**

The hospital bed replacement building under construction at the Ioannis A. Lougaris Department of Veterans Affairs Medical Center in Reno, Nevada, is hereby designated as the “Jack Streeter Building”. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Jack Streeter Building.

### **Subtitle C—Homeless Veterans**

**SEC. 121. EXTENSION OF PROGRAM OF HOUSING ASSISTANCE FOR HOMELESS VETERANS.**

Section 3735(c) is amended by striking “December 31, 1999” and inserting “December 31, 2001”.

**SEC. 122. HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS.**

(a) **PURPOSES OF GRANTS.**—Paragraph (1) of section 3(a) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by inserting “, and expanding existing programs for furnishing,” after “new programs to furnish”.

(b) **EXTENSION OF AUTHORITY TO MAKE GRANTS.**—Paragraph (2) of that section is amended by striking “September 30, 1999” and inserting “September 30, 2001”.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Section 12 of that Act (38 U.S.C. 7721 note) is amended in the first sentence by inserting “and \$50,000,000 for each of fiscal years 2000 and 2001” after “for fiscal years 1993 through 1997”.

**SEC. 123. AUTHORIZATIONS OF APPROPRIATIONS FOR HOMELESS VETERANS’ REINTEGRATION PROJECTS.**

Section 738(e)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11448(e)(1)) is amended by adding at the end the following:

- (H) \$10,000,000 for fiscal year 2000.
- (I) \$10,000,000 for fiscal year 2001.”.

**SEC. 124. REPORT ON IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING PERFORMANCE MEASURES.**

(a) **REPORT.**—Not later than three months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report containing a detailed plan for the evaluation by the Department of Veterans Affairs of the effectiveness of programs to assist homeless veterans.

(b) **OUTCOME MEASURES.**—The plan shall include outcome measures which determine whether veterans are housed and employed within six months after housing and employment are secured for veterans under such programs.

### **Subtitle D—Other Health Care Provisions**

**SEC. 131. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.**

(a) **DEFINITIONS.**—Section 1701 is amended—

(1) in paragraph (6)—

- (A) by striking “and” at the end of subparagraph (A);
- (B) by striking the period at the end of subparagraph (B) and inserting “, and”; and

(C) by inserting after subparagraph (B) the following new subparagraph: “(C) emergency care, or reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title.”; and

(2) by adding at the end the following new paragraph:

“(10) The term ‘emergency medical condition’ means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

“(A) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

“(B) serious impairment to bodily functions; or

“(C) serious dysfunction of any bodily organ or part.”.

(b) CONTRACT CARE.—Section 1703(a)(3) is amended by striking “medical emergencies” and all that follows through “health of a veteran” and inserting “an emergency medical condition of a veteran who is enrolled under section 1705 of this title or who is”.

(c) REIMBURSEMENT OF EXPENSES FOR EMERGENCY CARE.—Section 1728(a)(2) is amended—

(1) by striking “or” before “(D)”; and

(2) by inserting before the semicolon at the end the following: “, or (E) for any emergency medical condition of a veteran enrolled under section 1705 of this title”.

(d) PAYMENT PRIORITY.—Section 1705 is amended by adding at the end the following new subsection:

“(d) The Secretary shall require in a contract under section 1703(a)(3) of this title, and as a condition of payment under section 1728(a)(2) of this title, that payment by the Secretary for treatment under such contract, or under such section, of a veteran enrolled under this section shall be made only after any payment that may be made with respect to such treatment under part A or part B of the Medicare program and after any payment that may be made with respect to such treatment by a third-party insurance provider.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care or services provided on or after the date of the enactment of this Act.

**SEC. 132. IMPROVEMENT OF SPECIALIZED MENTAL HEALTH SERVICES FOR VETERANS.**

(a) IN GENERAL.—(1) Subchapter II of chapter 17 is amended by inserting after section 1712B the following new section:

**“§ 1712C. Specialized mental health services**

“(a) The Secretary shall carry out programs for purposes of enhancing the provision of specialized mental health services to veterans.

“(b) The programs carried out by the Secretary under subsection (a) shall include the following:

“(1) Programs relating to the treatment of Post Traumatic Stress Disorder (PTSD), including programs for—

“(A) the establishment and operation of additional outpatient and residential treatment facilities for Post Traumatic Stress Disorder in areas that are underserved by existing programs relating to Post Traumatic Stress Disorder, as determined by qualified mental health personnel of the Department who oversee such programs;

“(B) the provision of services in response to the specific needs of veterans with Post Traumatic Stress Disorder and related disorders, including short-term or long-term care services that combine residential treatment of Post Traumatic Stress Disorder;

“(C) the provision of Post Traumatic Stress Disorder or dedicated case management services on an outpatient basis; and

“(D) the enhancement of staffing of existing programs relating to Post Traumatic Stress Disorder which have exceeded the projected workloads for such programs.

“(2) Programs relating to substance use disorders, including programs for—

“(A) the establishment and operation of additional Department-based or community-based residential treatment facilities;

“(B) the expansion of the provision of opioid treatment services, including the establishment and operation of additional programs for the provision of opioid treatment services; and

“(C) the reestablishment or enhancement of substance use disorder services at facilities at which such services have been eliminated or curtailed, with an emphasis on the reestablishment or enhancement of services at facilities where demand for such services is high or which serve large geographic areas.

“(c)(1) The Secretary shall provide for the allocation of funds for the programs carried out under this section in a centralized manner.

(2) The allocation of funds for such programs shall—

“(A) be based upon an assessment of the need for funds conducted by qualified mental health personnel of the Department who oversee such programs; and

“(B) emphasize, to the maximum extent practicable, the availability of funds for the programs described in paragraphs (1) and (2) of subsection (b).”.

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1712B the following new item:

“1712C. Specialized mental health services.”.

(b) REPORT.—(1) Not later than March 1 of each of 2000, 2001, and 2002, the Secretary of Veterans Affairs shall submit to Congress a report on the programs carried out by the Secretary under section 1712C of title 38, United States Code (as added by subsection (a)).

(2) The report shall, for the period beginning on the date of the enactment of this Act and ending on the date of the report—

(A) describe the programs carried out under such section 1712C;

(B) set forth the number of veterans provided services under such programs; and

(C) set forth the amounts expended for purposes of carrying out such programs.

**SEC. 133. TREATMENT AND SERVICES FOR DRUG OR ALCOHOL DEPENDENCY.**

Section 1720A(c) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking “may not be transferred” and inserting “may be transferred”; and

(B) by striking “unless such transfer is during the last thirty days of such member’s enlistment or tour of duty”; and

(2) in the first sentence of paragraph (2), by striking “during the last thirty days of such person’s enlistment period or tour of duty”.

**SEC. 134. ALLOCATION TO DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES OF AMOUNTS IN MEDICAL CARE COLLECTIONS FUND.**

Section 1729A(d) is amended—

(1) by striking “(1)”;

(2) by striking “each designated health care region” and inserting “each Department health care facility”;

(3) by striking “each region” and inserting “each facility”;

(4) by striking “such region” both places it appears and inserting “such facility”; and

(5) by striking paragraph (2).

**SEC. 135. EXTENSION OF CERTAIN PERSIAN GULF WAR AUTHORITIES.**

(a) THREE-YEAR EXTENSION OF NEWSLETTER ON MEDICAL CARE.—Section 105(b)(2) of the Persian Gulf War Veterans’ Benefits Act (title I of Public Law 103–446; 108 Stat. 4659; 38 U.S.C. 1117 note) is amended by striking “December 31, 1999” and inserting “December 31, 2002”.

(b) THREE-YEAR EXTENSION OF PROGRAM FOR EVALUATION OF HEALTH OF SPOUSES AND CHILDREN.—Section 107(b) of Persian Gulf War Veterans’ Benefits Act (title I of Public Law 103–446; 38 U.S.C. 1117 note) is amended by striking “December 31, 1999” and inserting “December 31, 2002”.

**SEC. 136. REPORT ON COORDINATION OF PROCUREMENT OF PHARMACEUTICALS AND MEDICAL SUPPLIES BY THE DEPARTMENT OF VETERANS AFFAIRS AND THE DEPARTMENT OF DEFENSE.**

(a) REQUIREMENT.—Not later than March 31, 2000, the Secretary of Veterans Affairs and the Secretary of Defense shall jointly submit to the Committees on Veterans’ Affairs and Armed Services of the Senate and the Committees on Veterans’ Affairs and Armed Services of the House of Representatives a report on the cooperation between the Department of Veterans Affairs and the Department of Defense in the procurement of pharmaceuticals and medical supplies.

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

(1) A description of the current cooperation between the Department of Veterans Affairs and the Department of Defense in the procurement of pharmaceuticals and medical supplies.

(2) An assessment of the means by which cooperation between the departments in such procurement could be enhanced or improved.

(3) A description of any existing memoranda of agreement between the Department of Veterans Affairs and the Department of Defense that provide for the cooperation referred to in subsection (a).

(4) A description of the effects, if any, such agreements will have on current staffing levels at the Defense Supply Center in Philadelphia, Pennsylvania, and the Department of Veterans Affairs National Acquisition Center in Hines, Illinois.

(5) A description of the effects, if any, of such cooperation on military readiness.

(6) A comprehensive assessment of cost savings realized and projected over the five fiscal year period beginning in fiscal year 1999 for the Department of Veterans Affairs and the Department of Defense as a result of such cooperation, and the overall savings to the Treasury of the United States as a result of such cooperation.

(7) A list of the types of medical supplies and pharmaceuticals for which cooperative agreements would not be appropriate and the reason or reasons therefor.

(8) An assessment of the extent to which cooperative agreements could be expanded to include medical equipment, major systems, and durable goods used in the delivery of health care by the Department of Veterans Affairs and the Department of Defense.

(9) A description of the effects such agreements might have on distribution of items purchased cooperatively by the Department of Veterans Affairs and the Department of Defense, particularly outside the continental United States.

(10) An assessment of the potential to establish common pharmaceutical formularies between the Department of Veterans Affairs and the Department of Defense.

(11) An explanation of the current Uniform Product Number (UPN) requirements of each Department and of any planned standardization of such requirements between the Departments for medical equipment and durable goods manufacturers.

**SEC. 137. REIMBURSEMENT OF MEDICAL EXPENSES OF VETERANS LOCATED IN ALASKA.**

(a) **PRESERVATION OF CURRENT REIMBURSEMENT RATES.**—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall, for purposes of reimbursing veterans in Alaska for medical expenses under section 1728 of title 38, United States Code, during the one-year period beginning on the date of the enactment of this Act, use the fee-for-service payment schedule in effect for such purposes on July 31, 1999, rather than the Participating Physician Fee Schedule under the Medicare program.

(b) **REPORT.**—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs and the Secretary of Health and Human Services shall jointly submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report and recommendation on the use of the Participating Physician Fee Schedule under the Medicare program as a means of calculating reimbursement rates for medical expenses of veterans located in Alaska under section 1728 of title 38, United States Code.

(2) The report shall—

(A) assess the differences between health care costs in Alaska and health care costs in the continental United States;

(B) describe any differences between the costs of providing health care in Alaska and the reimbursement rates for the provision of health care under the Participating Physician Fee Schedule; and

(C) assess the effects on health care for veterans in Alaska of implementing the Participating Physician Fee Schedule as a means of calculating reimbursement rates for medical expenses of veterans located in Alaska under section 1728 of title 38, United States Code.

**SEC. 138. REPEAL OF FOUR-YEAR LIMITATION ON TERMS OF UNDER SECRETARY FOR HEALTH AND UNDER SECRETARY FOR BENEFITS.**

(a) **UNDER SECRETARY FOR HEALTH.**—Section 305 is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(b) **UNDER SECRETARY FOR BENEFITS.**—Section 306 is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) **APPLICABILITY.**—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply with respect to indi-

viduals appointed as Under Secretary for Health and Under Secretary for Benefits, respectively, on or after that date.

### **Subtitle E—Major Medical Facility Projects Construction Authorization**

#### **SEC. 141. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.**

(a) **IN GENERAL.**—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) Construction of a long term care facility at the Department of Veterans Affairs Medical Center, Lebanon, Pennsylvania, in an amount not to exceed \$14,500,000.

(2) Renovations and environmental improvements at the Department of Veterans Affairs Medical Center, Fargo, North Dakota, in an amount not to exceed \$12,000,000.

(3) Construction of a surgical suite and post-anesthesia care unit at the Department of Veterans Affairs Medical Center, Kansas City, Missouri, in an amount not to exceed \$13,000,000.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2000 for the Construction, Major Projects, Account \$213,100,000 for the projects authorized in subsection (a) and for the continuation of projects authorized in section 701(a) of the Veterans Programs Enhancement Act of 1998 (Public Law 105–368; 112 Stat. 3348).

(2) **LIMITATION ON FISCAL YEAR 2000 PROJECTS.**—The projects authorized in subsection (a) may only be carried out using—

(A) funds appropriated for fiscal year 2000 pursuant to the authorizations of appropriations in subsection (a);

(B) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2000 that remain available for obligation; and

(C) funds appropriated for Construction, Major Projects, for fiscal year 2000 for a category of activity not specific to a project.

(c) **AVAILABILITY OF FUNDS FOR FISCAL YEAR 1999 PROJECTS.**—Section 703(b)(1) of the Veterans Programs Enhancement Act of 1998 (112 Stat. 3349) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) funds appropriated for fiscal year 2000 pursuant to the authorization of appropriations in section 341(b)(1) of the Veterans Benefits Act of 1999;”.

## **TITLE II—BENEFITS MATTERS**

#### **SEC. 201. PAYMENT RATE OF CERTAIN BURIAL BENEFITS FOR CERTAIN FILIPINO VETERANS.**

(a) **PAYMENT RATE.**—Section 107 is amended—

(1) in subsection (a), by striking “Payments” and inserting “Subject to subsection (c), payments”; and

(2) by adding at the end the following:

“(c)(1) In the case of an individual described in paragraph (2), payments under section 2302 or 2303 of this title by reason of subsection (a)(3) shall be made at the rate of \$1 for each dollar authorized.

“(2) Paragraph (1) applies to any individual whose service is described in subsection (a) and who dies after the date of the enactment of the Veterans Benefits Act of 1999 if the individual, on the individual’s date of death—

“(A) is a citizen of the United States;

“(B) is residing in the United States; and

“(C) either—

“(i) is receiving compensation under chapter 11 of this title; or

“(ii) if such service had been deemed to be active military, naval, or air service, would have been paid pension under section 1521 of this title without denial or discontinuance by reason of section 1522 of this title.”.

(b) **APPLICABILITY.**—No benefits shall accrue to any person for any period before the date of the enactment of this Act by reason of the amendments made by subsection (a).



**SEC. 202. EXTENSION OF AUTHORITY TO MAINTAIN A REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES.**

Section 315(b) is amended by striking “December 31, 1999” and inserting “December 31, 2004”.

**SEC. 203. EXTENSION OF ADVISORY COMMITTEE ON MINORITY VETERANS.**

Section 544(e) is amended by striking “December 31, 1999” and inserting “December 31, 2004”.

**SEC. 204. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF FORMER PRISONERS OF WAR.**

(a) **ELIGIBILITY.**—Section 1318(b) is amended—

(1) by striking “that either—” in the matter preceding paragraph (1) and inserting “rated totally disabling if—”; and

(2) by adding at the end the following new paragraph:

“(3) the veteran was a former prisoner of war who died after September 30, 1999, and whose disability was continuously rated totally disabling for a period of one year immediately preceding death.”.

(b) **CONFORMING AMENDMENTS.**—Such section is further amended—

(1) in paragraph (1)—

(A) by inserting “the disability” after “(1)”; and

(B) by striking “or” after “death.”; and

(2) in paragraph (2)—

(A) by striking “if so rated for a lesser period, was so rated continuously” and inserting “the disability was continuously rated totally disabling”; and

(B) by striking the period at the end and inserting “; or”.

**SEC. 205. REPEAL OF LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT INSTITUTIONALIZED VETERANS.**

Section 5503 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

**SEC. 206. CLARIFICATION OF VETERANS EMPLOYMENT OPPORTUNITIES.**

(a) **CLARIFICATION.**—Section 3304(f) of title 5, United States Code, is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph (2):

“(2) If selected, a preference eligible or veteran described in paragraph (1) shall acquire competitive status and shall receive a career or career-conditional appointment, as appropriate.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if included in the amendment made to section 3304 of title 5, United States Code, by section 2 of the Veterans Employment Opportunities Act of 1998 (Public Law 105–339; 112 Stat. 3182), to which such amendments relate.

## TITLE III—MEMORIAL AFFAIRS

### Subtitle A—Arlington National Cemetery

**SEC. 301. SHORT TITLE.**

This subtitle may be cited as the “Arlington National Cemetery Burial and Inurnment Eligibility Act of 1999”.

**SEC. 302. PERSONS ELIGIBLE FOR BURIAL IN ARLINGTON NATIONAL CEMETERY.**

(a) **IN GENERAL.**—(1) Chapter 24 is amended by adding at the end the following new section:

**“§ 2412. Arlington National Cemetery: persons eligible for burial**

“(a) **PRIMARY ELIGIBILITY.**—The remains of the following individuals may be buried in Arlington National Cemetery:

“(1) Any member of the Armed Forces who dies while on active duty.

“(2) Any retired member of the Armed Forces and any person who served on active duty and at the time of death was entitled (or but for age would have been entitled) to retired pay under chapter 1223 of title 10.

“(3) Any former member of the Armed Forces separated for physical disability before October 1, 1949, who—

- “(A) served on active duty; and  
 “(B) would have been eligible for retirement under the provisions of section 1201 of title 10 (relating to retirement for disability) had that section been in effect on the date of separation of the member.
- ”(4) Any former member of the Armed Forces whose last active duty military service terminated honorably and who has been awarded one of the following decorations:
- “(A) Medal of Honor.  
 “(B) Distinguished Service Cross, Air Force Cross, or Navy Cross.  
 “(C) Distinguished Service Medal.  
 “(D) Silver Star.  
 “(E) Purple Heart.
- “(5) Any former prisoner of war who dies on or after November 30, 1993.  
 “(6) The President or any former President.
- ”(7) Any former member of the Armed Forces whose last discharge or separation from active duty was under honorable conditions and who is or was one of the following:
- “(A) Vice President.  
 “(B) Member of Congress.  
 “(C) Chief Justice or Associate Justice of the Supreme Court.  
 “(D) The head of an Executive department (as such departments are listed in section 101 of title 5).  
 “(E) An individual who served in the foreign or national security services, if such individual died as a result of a hostile action outside the United States in the course of such service.
- “(8) Any individual whose eligibility is authorized in accordance with subsection (b).
- “(b) ADDITIONAL AUTHORIZATIONS OF BURIAL.—”(1) In the case of a former member of the Armed Forces not otherwise covered by subsection (a) whose last discharge or separation from active duty was under honorable conditions, if the Secretary of Defense makes a determination referred to in paragraph (3) with respect to such member, the Secretary of Defense may authorize the burial of the remains of such former member in Arlington National Cemetery under subsection (a)(8).
- “(2) In the case of any individual not otherwise covered by subsection (a) or paragraph (1), if the President makes a determination referred to in paragraph (3) with respect to such individual, the President may authorize the burial of the remains of such individual in Arlington National Cemetery under subsection (a)(8).
- “(3) A determination referred to in paragraph (1) or (2) is a determination that the acts, service, or other contributions to the Nation of the former member or individual concerned are of equal or similar merit to the acts, service, or other contributions to the Nation of any of the persons listed in subsection (a).
- “(4)(A) In the case of an authorization for burial under this subsection, the President or the Secretary of Defense, as the case may be, shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report on the authorization not later than 72 hours after the authorization.
- “(B) Each report under subparagraph (A) shall—
- “(i) identify the individual authorized for burial; and  
 “(ii) provide a justification for the authorization for burial.
- “(5)(A) In the case of an authorization for burial under this subsection, the President or the Secretary of Defense, as the case may be, shall publish in the Federal Register a notice of the authorization as soon as practicable after the authorization.
- “(B) Each notice under subparagraph (A) shall—
- “(i) identify the individual authorized for burial; and  
 “(ii) provide a justification for the authorization for burial.
- “(c) ELIGIBILITY OF FAMILY MEMBERS.—”The remains of the following individuals may be buried in Arlington National Cemetery:
- “(1)(A) Except as provided in subparagraph (B), the spouse, surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a person listed in subsection (a), but only if buried in the same gravesite as that person.
- “(B) In a case under subparagraph (A) in which the same gravesite may not be used due to insufficient space, a person otherwise eligible under that subparagraph may be interred in a gravesite adjoining the gravesite of the person listed in subsection (a) if space in such adjoining gravesite had been reserved for the burial of such person otherwise eligible under that subparagraph before January 1962.
- “(2)(A) The spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces on active duty if such

spouse, minor child, or unmarried adult child dies while such member is on active duty.

“(B) The individual whose spouse, minor child, and unmarried adult child is eligible under subparagraph (A), but only if buried in the same gravesite as the spouse, minor child, or unmarried adult child.

“(3) The parents of a minor child or unmarried adult child whose remains, based on the eligibility of a parent, are already buried in Arlington National Cemetery, but only if buried in the same gravesite as that minor child or unmarried adult child.

“(4)(A) Subject to subparagraph (B), the surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces who was lost, buried at sea, or officially determined to be permanently absent in a status of missing or missing in action.

“(B) A person is not eligible under subparagraph (A) if a memorial to honor the memory of the member is placed in a cemetery in the national cemetery system, unless the memorial is removed. A memorial removed under this subparagraph may be placed, at the discretion of the Superintendent, in Arlington National Cemetery.

“(5) The surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces buried in a cemetery under the jurisdiction of the American Battle Monuments Commission.

“(d) SPOUSES.—For purposes of subsection (c)(1), a surviving spouse of a person whose remains are buried in Arlington National Cemetery by reason of eligibility under subsection (a) who has remarried is eligible for burial in the same gravesite of that person. The spouse of the surviving spouse is not eligible for burial in such gravesite.

“(e) DISABLED ADULT UNMARRIED CHILDREN.—In the case of an unmarried adult child who is incapable of self-support up to the time of death because of a physical or mental condition, the child may be buried under subsection (c) without requirement for approval by the Superintendent under that subsection if the burial is in the same gravesite as the gravesite in which the parent, who is eligible for burial under subsection (a), has been or will be buried.

“(f) FAMILY MEMBERS OF PERSONS BURIED IN A GROUP GRAVESITE.—In the case of a person eligible for burial under subsection (a) who is buried in Arlington National Cemetery as part of a group burial, the surviving spouse, minor child, or unmarried adult child of the member may not be buried in the group gravesite.

“(g) EXCLUSIVE AUTHORITY FOR BURIAL IN ARLINGTON NATIONAL CEMETERY.—Eligibility for burial of remains in Arlington National Cemetery prescribed under this section is the exclusive eligibility for such burial.

“(h) APPLICATION FOR BURIAL.—A request for burial of remains of an individual in Arlington National Cemetery made before the death of the individual may not be considered by the Secretary of the Army, the Secretary of Defense, or any other responsible official.

“(i) REGISTER OF BURIED INDIVIDUALS.—(1) The Secretary of the Army shall maintain a register of each individual buried in Arlington National Cemetery and shall make such register available to the public.

“(2) With respect to each such individual buried on or after January 1, 1998, the register shall include a brief description of the basis of eligibility of the individual for burial in Arlington National Cemetery.

“(j) DEFINITIONS.—For purposes of this section:

“(1) The term ‘retired member of the Armed Forces’ means—

“(A) any member of the Armed Forces on a retired list who served on active duty and who is entitled to retired pay;

“(B) any member of the Fleet Reserve or Fleet Marine Corps Reserve who served on active duty and who is entitled to retainer pay; and

“(C) any member of a reserve component of the Armed Forces who has served on active duty and who has received notice from the Secretary concerned under section 12731(d) of title 10 of eligibility for retired pay under chapter 1223 of title 10.

“(2) The term ‘former member of the Armed Forces’ includes a person whose service is considered active duty service pursuant to a determination of the Secretary of Defense under section 401 of Public Law 95–202 (38 U.S.C. 106 note).

“(3) The term ‘Superintendent’ means the Superintendent of Arlington National Cemetery.”.

(2) The table of sections at the beginning of chapter 24 is amended by adding at the end the following new item:

“2412. Arlington National Cemetery: persons eligible for burial.”.

(b) PUBLICATION OF UPDATED PAMPHLET.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Army shall publish an updated pamphlet describing eligibility for burial in Arlington National Cemetery. The pamphlet shall reflect the provisions of section 2412 of title 38, United States Code, as added by subsection (a).

(c) TECHNICAL AMENDMENTS.—Section 2402(7) is amended—

(1) by inserting “(or but for age would have been entitled)” after “was entitled”;

(2) by striking “chapter 67” and inserting “chapter 1223”; and

(3) by striking “or would have been entitled to” and all that follows and inserting a period.

(d) EFFECTIVE DATE.—Section 2412 of title 38, United States Code, as added by subsection (a), shall apply with respect to individuals dying on or after the date of the enactment of this Act.

**SEC. 303. PERSONS ELIGIBLE FOR PLACEMENT IN THE COLUMBARIUM IN ARLINGTON NATIONAL CEMETERY.**

(a) IN GENERAL.—(1) Chapter 24 is amended by adding after section 2412, as added by section 302(a)(1) of this Act, the following new section:

**“§2413. Arlington National Cemetery: persons eligible for placement in columbarium**

“(a) ELIGIBILITY.—The cremated remains of the following individuals may be placed in the columbarium in Arlington National Cemetery:

“(1) A person eligible for burial in Arlington National Cemetery under section 2412 of this title.

“(2)(A) A veteran whose last period of active duty service (other than active duty for training) ended honorably.

“(B) The spouse, surviving spouse, minor child, and, at the discretion of the Superintendent of Arlington National Cemetery, unmarried adult child of such a veteran.

“(b) SPOUSE.—Section 2412(d) of this title shall apply to a spouse under this section in the same manner as it applies to a spouse under section 2412 of this title.”.

(2) The table of sections at the beginning of chapter 24 is amended by adding after section 2412, as added by section 302(a)(2) of this Act, the following new item:

“2413. Arlington National Cemetery: persons eligible for placement in columbarium.”.

(b) EFFECTIVE DATE.—Section 2413 of title 38, United States Code, as added by subsection (a), shall apply with respect to individuals dying on or after the date of the enactment of this Act.

## Subtitle B—World War II Memorial

**SEC. 311. SHORT TITLE.**

This subtitle may be cited as the “World War II Memorial Completion Act”.

**SEC. 312. FUND RAISING BY AMERICAN BATTLE MONUMENTS COMMISSION FOR WORLD WAR II MEMORIAL.**

(a) CODIFICATION OF EXISTING AUTHORITY; EXPANSION OF AUTHORITY.—(1) Chapter 21 of title 36, United States Code, is amended by adding at the end the following new section:

**“§2113. World War II memorial in the District of Columbia**

“(a) DEFINITIONS.—In this section:

“(1) The term “World War II memorial” means the memorial authorized by Public Law 103–32 (107 Stat. 90) to be established by the American Battle Monuments Commission on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war.

“(2) The term “Commission” means the American Battle Monuments Commission.

“(3) The term “memorial fund” means the fund created by subsection (c).

“(b) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS.—Consistent with the authority of the Commission under section 2103(e) of this title, the Commission shall solicit and accept contributions for the World War II memorial.

“(c) CREATION OF MEMORIAL FUND.—(1) There is hereby created in the Treasury a fund for the World War II memorial, which shall consist of the following:

“(A) Amounts deposited, and interest and proceeds credited, under paragraph (2).

“(B) Obligations obtained under paragraph (3).

“(C) The amount of surcharges paid to the Commission for the World War II memorial under the World War II 50th Anniversary Commemorative Coins Act.

“(D) Amounts borrowed using the authority provided under subsection (e).

“(E) Any funds received by the Commission under section 2103(l) of this title in exchange for use of, or the right to use, any mark, copyright or patent.

“(2) The Chairman of the Commission shall deposit in the memorial fund the amounts accepted as contributions under subsection (b). The Secretary of the Treasury shall credit to the memorial fund the interest on, and the proceeds from sale or redemption of, obligations held in the memorial fund.

“(3) The Secretary of the Treasury shall invest any portion of the memorial fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the memorial fund.

“(d) USE OF MEMORIAL FUND.—The memorial fund shall be available to the Commission for—

“(1) the expenses of establishing the World War II memorial, including the maintenance and preservation amount provided for in section 8(b) of the Commemorative Works Act (40 U.S.C. 1008(b));

“(2) such other expenses, other than routine maintenance, with respect to the World War II memorial as the Commission considers warranted; and

“(3) to secure, obtain, register, enforce, protect, and license any mark, copyright or patent that is owned by, assigned to, or licensed to the Commission under section 2103(l) of this title to aid or facilitate the construction of the World War II memorial.

“(e) SPECIAL BORROWING AUTHORITY.—(1) To assure that groundbreaking, construction, and dedication of the World War II memorial are completed on a timely basis, the Commission may borrow money from the Treasury of the United States in such amounts as the Commission considers necessary, but not to exceed a total of \$65,000,000. Borrowed amounts shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the month in which the obligations of the Commission are issued. The interest payments on such obligations may be deferred with the approval of the Secretary of the Treasury, but any interest payment so deferred shall also bear interest.

“(2) The borrowing of money by the Commission under paragraph (1) shall be subject to such maturities, terms, and conditions as may be agreed upon by the Commission and the Secretary of the Treasury, except that the maturities may not exceed 20 years and such borrowings may be redeemable at the option of the Commission before maturity.

“(3) The obligations of the Commission shall be issued in amounts and at prices approved by the Secretary of the Treasury. The authority of the Commission to issue obligations under this subsection shall remain available without fiscal year limitation. The Secretary of the Treasury shall purchase any obligations of the Commission to be issued under this subsection, and for such purpose the Secretary of the Treasury may use as a public debt transaction of the United States the proceeds from the sale of any securities issued under chapter 31 of title 31. The purposes for which securities may be issued under such chapter are extended to include any purchase of the Commission’s obligations under this subsection.

“(4) Repayment of the interest and principal on any funds borrowed by the Commission under paragraph (1) shall be made from amounts in the memorial fund. The Commission may not use for such purpose any funds appropriated for any other activities of the Commission.

“(f) TREATMENT OF BORROWING AUTHORITY.—In determining whether the Commission has sufficient funds to complete construction of the World War II memorial, as required by section 8 of the Commemorative Works Act (40 U.S.C. 1008), the Secretary of the Interior shall consider the funds that the Commission may borrow from the Treasury under subsection (e) as funds available to complete construction

of the memorial, whether or not the Commission has actually exercised the authority to borrow such funds.

“(g) VOLUNTARY SERVICES.—(1) Notwithstanding section 1342 of title 31, the Commission may accept from any person voluntary services to be provided in furtherance of the fund-raising activities of the Commission relating to the World War II memorial.

“(2) A person providing voluntary services under this subsection shall be considered to be a Federal employee for purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and chapter 171 of title 28, relating to tort claims. A volunteer who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such voluntary service, except that any volunteers given responsibility for the handling of funds or the carrying out of a Federal function are subject to the conflict of interest laws contained in chapter 11 of title 18, and the administrative standards of conduct contained in part 2635 of title 5, Code of Federal Regulations.

“(3) The Commission may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under this subsection. The Commission shall determine which expenses are eligible for reimbursement under this paragraph.

“(4) Nothing in this subsection shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees.

“(h) TREATMENT OF CERTAIN CONTRACTS.—A contract entered into by the Commission for the design or construction of the World War II memorial is not a funding agreement as that term is defined in section 201 of title 35.

“(i) EXTENSION OF AUTHORITY TO ESTABLISH MEMORIAL.—Notwithstanding section 10 of the Commemorative Works Act (40 U.S.C. 1010), the legislative authorization for the construction of the World War II memorial contained in Public Law 103–32 (107 Stat. 90) shall not expire until December 31, 2005.”.

(2) The table of sections at the beginning of chapter 21 of title 36, United States Code, is amended by adding at the end the following new item:

“2113. World War II memorial in the District of Columbia.”.

(b) CONFORMING AMENDMENTS.—Public Law 103–32 (107 Stat. 90) is amended by striking sections 3, 4, and 5.

(c) EFFECT OF REPEAL OF CURRENT MEMORIAL FUND.—Upon the date of the enactment of this Act, the Secretary of the Treasury shall transfer amounts in the fund created by section 4(a) of Public Law 103–32 (107 Stat. 91) to the fund created by section 2113 of title 36, United States Code, as added by subsection (a).

**SEC. 313. GENERAL AUTHORITY OF AMERICAN BATTLE MONUMENTS COMMISSION TO SOLICIT AND RECEIVE CONTRIBUTIONS.**

Subsection (e) of section 2103 of title 36, United States Code, is amended to read as follows:

“(e) SOLICITATION AND RECEIPT OF CONTRIBUTIONS.—(1) The Commission may solicit and receive funds and in-kind donations and gifts from any State, municipal, or private source to carry out the purposes of this chapter. The Commission shall deposit such funds in a separate account in the Treasury. Funds from this account shall be disbursed upon vouchers approved by the Chairman of the Commission as well as by a Federal official authorized to sign payment vouchers.

“(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds and in-kind donations and gifts under paragraph (1) would—

“(A) reflect unfavorably on the ability of the Commission, or any employee of the Commission, to carry out the responsibilities or official duties of the Commission in a fair and objective manner; or

“(B) compromise the integrity or the appearance of the integrity of the programs of the Commission or any official involved in those programs.”.

**SEC. 314. INTELLECTUAL PROPERTY AND RELATED ITEMS.**

Section 2103 of title 36, United States Code, is amended by adding at the end the following new subsection:

“(1) INTELLECTUAL PROPERTY AND RELATED ITEMS.—(1) The Commission may—

“(A) adopt, use, register, and license trademarks, service marks, and other marks;

“(B) obtain, use, register, and license the use of copyrights consistent with section 105 of title 17;

“(C) obtain, use, and license patents; and

“(D) accept gifts of marks, copyrights, patents and licenses for use by the Commission.

“(2) The Commission may grant exclusive and nonexclusive licenses in connection with any mark, copyright, patent, or license for the use of such mark, copyright or patent, except to extent the grant of such license by the Commission would be contrary to any contract or license by which the use of such mark, copyright or patent was obtained.

“(3) The Commission may enforce any mark, copyright, or patent by an action in the district courts under any law providing for the protection of such marks, copyrights, or patents.

“(4) The Attorney General shall furnish the Commission with such legal representation as the Commission may require under paragraph (3). The Secretary of Defense shall provide representation for the Commission in administrative proceedings before the Patent and Trademark Office and Copyright Office.

“(5) Section 203 of title 17 shall not apply to any copyright transferred in any manner to the Commission.”.

#### **TITLE IV—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

##### **SEC. 401. TEMPORARY SERVICE OF CERTAIN JUDGES OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS UPON EXPIRATION OF THEIR TERMS OR RETIREMENT.**

(a) **AUTHORITY FOR TEMPORARY SERVICE.**—(1) Notwithstanding subsection (c) of section 7253 of title 38, United States Code, and subject to the provisions of this section, a judge of the Court whose term on the Court expires in 2004 or 2005 and completes such term, or who retires from the Court under section 7296(b)(1) of such title, may continue to serve on the Court after the expiration of the judge’s term or retirement, as the case may be, without reappointment for service on the Court under such section 7253.

(2) A judge may continue to serve on the Court under paragraph (1) only if the judge submits to the chief judge of the Court written notice of an election to so serve 30 days before the earlier of—

(A) the expiration of the judge’s term on the Court as described in that paragraph; or

(B) the date on which the judge meets the age and service requirements for eligibility for retirement set forth in section 7296(b)(1) of such title.

(3) The total number of judges serving on the Court at any one time, including the judges serving under this section, may not exceed 7.

(b) **PERIOD OF TEMPORARY SERVICE.**—(1) The service of a judge on the Court under this section may continue until the earlier of—

(A) the date that is 30 days after the date on which the chief judge of the Court submits to the President and Congress a written certification based on the projected caseload of the Court that the work of the Court can be performed in a timely and efficient manner by judges of the Court under this section who are senior on the Court to the judge electing to continue to provide temporary service under this section or without judges under this section; or

(B) the date on which the person appointed to the position on the Court occupied by the judge under this section is qualified for the position.

(2) Subsections (f) and (g) of section 7253 of title 38, United States Code, shall apply with respect to the service of a judge on the Court under this section.

(c) **TEMPORARY SERVICE IN OTHER POSITIONS.**—(1) If on the date that the person appointed to the position on the Court occupied by a judge under this section is qualified another position on the Court is vacant, the judge may serve in such other position under this section.

(2) If two or more judges seek to serve in a position on the Court in accordance with paragraph (1), the judge senior in service on the Court shall serve in the position under that paragraph.

(d) **COMPENSATION.**—(1) Notwithstanding any other provision of law, a person whose service as a judge of the Court continues under this section shall be paid for the period of service under this section an amount as follows:

(A) In the case of a person eligible to receive retired pay under subchapter V of chapter 72 of title 38, United States Code, or a retirement annuity under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, United States Code, as applicable, an amount equal to one-half of the amount of the current salary payable to a judge of the Court under chapter 72 of title 38, United States Code, having a status on the Court equivalent to the highest status on the Court attained by the person.

(B) In the case of a person not eligible to receive such retired pay or such retirement annuity, an amount equal to the amount of current salary payable to a judge of the Court under such chapter 72 having a status on the Court equivalent to the highest status on the Court attained by the person.

(2) Amounts paid under this subsection to a person described in paragraph (1)(A)—

(A) shall not be treated as—

(i) compensation for employment with the United States for purposes of section 7296(e) of title 38, United States Code, or any provision of title 5, United States Code, relating to the receipt or forfeiture of retired pay or retirement annuities by a person accepting compensation for employment with the United States; or

(ii) pay for purposes of deductions or contributions for or on behalf of the person to retired pay under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable; but

(B) may, at the election of the person, be treated as pay for purposes of deductions or contributions for or on behalf of the person to a retirement or other annuity, or both, under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable.

(3) Amounts paid under this subsection to a person described in paragraph (1)(B) shall be treated as pay for purposes of deductions or contributions for or on behalf of the person to retired pay or a retirement or other annuity under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable.

(4) Amounts paid under this subsection shall be derived from amounts available for payment of salaries and benefits of judges of the Court.

(e) CREDITABLE SERVICE.—(1) The service as a judge of the Court under this section of a person who makes an election provided for under subsection (d)(2)(B) shall constitute creditable service toward the judge's years of judicial service for purposes of section 7297 of title 38, United States Code, with such service creditable at a rate equal to the rate at which such service would be creditable for such purposes if served by a judge of the Court under chapter 72 of that title.

(2) The service as a judge of the Court under this section of a person paid salary under subsection (d)(1)(B) shall constitute creditable service of the person toward retirement under subchapter V of chapter 72 of title 38, United States Code, or subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, United States Code, as applicable.

(f) ELIGIBILITY FOR ADDITIONAL SERVICE.—The service of a person as a judge of the Court under this section shall not affect the eligibility of the person for appointment to an additional term or terms on the Court, whether in the position occupied by the person under this section or in another position on the Court.

(g) TREATMENT OF PARTY MEMBERSHIP.—For purposes of determining compliance with the last sentence of section 7253(b) of title 38, United States Code, the party membership of a judge serving on the Court under this section shall not be taken into account.

**SEC. 402. MODIFIED TERMS FOR CERTAIN JUDGES OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) MODIFIED TERMS.—Notwithstanding section 7253(c) of title 38, United States Code, the term of any judge of the Court who is appointed to a position on the Court that becomes vacant in 2004 shall be 13 years.

(b) ELIGIBILITY FOR RETIREMENT.—(1) For purposes of determining the eligibility to retire under section 7296 of title 38, United States Code, of a judge appointed as described in subsection (a)—

(A) the age and service requirements in the table in paragraph (2) shall apply to the judge instead of the age and service requirements in the table in subsection (b)(1) of that section that would otherwise apply to the judge; and

(B) the minimum years of service applied to the judge for eligibility to retire under the first sentence of subsection (b)(2) of that section shall be 13 years instead of 15 years.

(2) The age and service requirements in this paragraph are as follows:

The judge has attained age:	And the years of service as a judge are at least
65 .....	13
66 .....	13
67 .....	13



The judge has attained age:	And the years of service as a judge are at least
68 .....	12
69 .....	11
70 .....	10

**SEC. 403. TEMPORARY AUTHORITY FOR VOLUNTARY SEPARATION INCENTIVES FOR CERTAIN JUDGES ON UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) **TEMPORARY AUTHORITY.**—A voluntary separation incentive payment may be paid in accordance with this section to any judge of the Court described in subsection (c).

(b) **AMOUNT OF INCENTIVE PAYMENT.**—The amount of a voluntary separation incentive payment paid to a judge under this section shall be \$25,000.

(c) **COVERED JUDGES.**—A voluntary separation incentive payment may be paid under this section to any judge of the Court who—

(1) meets the age and service requirements for retirement set forth in section 7296(b)(1) of title 38, United States Code, as of the date on which the judge retires from the Court;

(2) submits a notice of an intent to retire in accordance with subsection (d); and

(3) retires from the Court under that section not later than 30 days after the date on which the judge meets such age and service requirements.

(d) **NOTICE OF INTENT TO RETIRE.**—(1) A judge of the Court seeking payment of a voluntary separation incentive payment under this section shall submit to the President and Congress a timely notice of an intent to retire from the Court, together with a request for payment of the voluntary separation incentive payment.

(2) A notice shall be timely submitted under paragraph (1) only if submitted—

(A) not later than one year before the date of retirement of the judge concerned from the Court; or

(B) in the case of a judge whose retirement from the Court will occur less than one year after the date of the enactment of this Act, not later than 30 days after the date of the enactment of this Act.

(e) **DATE OF PAYMENT.**—A voluntary separation incentive payment may be paid to a judge of the Court under this section only upon the retirement of the judge from the Court.

(f) **TREATMENT OF PAYMENT.**—A voluntary separation incentive payment paid to a judge under this section shall not be treated as pay for purposes of contributions for or on behalf of the judge to retired pay or a retirement or other annuity under subchapter V of chapter 72 of title 38, United States Code.

(g) **ELIGIBILITY FOR TEMPORARY SERVICE ON COURT.**—A judge seeking payment of a voluntary separation incentive payment under this section may serve on the Court under section 401 if eligible for such service under that section.

(h) **SOURCE OF PAYMENTS.**—Amounts for voluntary separation incentive payments under this section shall be derived from amounts available for payment of salaries and benefits of judges of the Court.

(i) **EXPIRATION OF AUTHORITY.**—A voluntary separation incentive payment may not be paid under this section to a judge who retires from the Court after December 31, 2002.

**SEC. 404. DEFINITION.**

In this title, the term “Court” means the United States Court of Appeals for Veterans Claims.

Amend the title so as to read: “A Bill To amend title 38, United States Code, to enhance programs providing health care and other benefits for veterans, to authorize major medical facility projects, to reform eligibility for burial in Arlington National Cemetery, and for other purposes.”.

**INTRODUCTION**

On May 19, 1999, Committee Chairman Arlen Specter introduced S. 1076, the proposed “Veterans Benefits Act of 1999.” S. 1076, as introduced, would have provided for a December 1, 1999, cost-of-living adjustment (COLA), equal to the December 1, 1999, COLA in Social Security benefits, in the rates of compensation for veterans who have service-connected disabilities and in the rates of dependency and indemnity compensation (DIC) for the survivors of those

who died from service-connected causes. In addition, S. 1076 would have, among other things: reauthorized, modified, and enhanced certain programs providing health care, education, and other benefits for veterans; authorized major medical facility projects; reformed eligibility for burial in Arlington National Cemetery; granted fund raising and borrowing authorities to facilitate the construction of a World War II Memorial; and modified provisions of law relating to the retirement of judges on the United States Court of Appeals for Veterans' Claims.

#### COMMITTEE HEARINGS

On January 29, 1999, the Committee held a hearing on the findings and recommendations of the Commission on Servicemembers and Veterans Transition Commission, a commission established by Public Law 104-275. The Committee received testimony from former Senator Robert J. Dole, the sponsor of legislation first calling for the creation of the Commission; from Anthony J. Principi, the Chairman of the Commission; and from representatives of the Department of Veterans Affairs (VA) and the Department of Defense (DOD).

On May 20, 1999, the Committee held a hearing on a number of bills pending before the Committee, including S. 1076. The Committee received testimony from Senator Kent Conrad; from representatives of the Department of Veterans Affairs (VA) and the Department of the Army; and from representatives of The American Legion, the Veterans of Foreign Wars (VFW), the Disabled American Veterans (DAV), the Paralyzed Veterans of America (PVA), AMVETS, and the Vietnam Veterans of America. In addition, the Committee received written statements for the record from the Chief Judge of the United States Court of Appeals for Veterans Claims; and from representatives of the American Federation of Government Employees, AFL-CIO, the National Association of Government Employees, the National Association of VA Physicians and Dentists, the Nurses Organization of Veterans Affairs, and National Coalition for Homeless Veterans.

#### COMMITTEE MEETING

On June 23, 1999, the Committee met in open session to consider legislation pending before the Committee. Among the measures so considered were two original bills which were derived from Titles I and II of S. 1076, as introduced, and S. 1076, as amended, to reflect the excision of Titles I and II from the bill and, further, to incorporate additional amendments. The Committee voted by unanimous voice vote to report the Committee bill, as further amended, favorably to the Senate.

#### SUMMARY OF THE COMMITTEE BILL AS REPORTED

S. 1076, as reported (hereinafter, the "Committee bill"), contains four titles summarized below that would, among other things, improve, modify and extend certain authorities relating to medical services and homeless veterans services provided by VA and the Department of Labor; authorize major medical construction projects and modify authorities under which VA enters into "enhanced use"

leases of VA-owned properties; modify VA benefits provided to certain Filipino veterans, to survivors of former prisoners of war, to hospitalized veterans who are incompetent, and to others; establish standards of eligibility for burial and inurnment in Arlington National Cemetery; authorize fund raising and borrowing by the American Battle Monuments Commission; and modify provisions of law relating to the retirement of judges of the United States Court of Appeals for Veterans Claims to encourage “staggered” retirements.

#### TITLE I—MEDICAL CARE

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

1. Remove a six-month time limitation on VA authority to provide adult day health care services to eligible veterans (section 101).
2. Remove a requirement that respite care services be provided only in VA hospitals or nursing homes and permit such services to be provided also in the veteran-patient’s home (section 102).
3. Extend VA authority to enter into “enhanced use leases”; expand the maximum authorized term of such leases to 55 years; authorize the expenditure of minor project construction account funds for capital activities on property leased under that authority; require that VA expand its internal training and outreach activities, and secure an independent analysis of VA usage of its enhanced use lease authority, in order to encourage the greater utilization of such authority (section 111).
4. Designate a hospital bed replacement building at the Ioannis A. Lougaris VA Medical Center in Reno, Nevada, the “Jack Street-er Building” (section 112).
5. Extend VA authority to provide housing assistance to homeless veterans (section 121).
6. Expand VA authority to provide grants to homeless veteran service providers to permit such grants to assist in the expansion of existing programs as well as the establishment of new programs, and authorize appropriations for the providing of such grant assistance (section 122).
7. Authorize appropriations to the Department of Labor to provide, directly or through grant assistance, homeless veterans’ re-integration services (section 123).
8. Require that VA report to the Congress on the effectiveness of programs to assist homeless veterans (section 124).
9. Require VA to provide or reimburse, as part of the “medical services” furnished to enrolled veterans, emergency care services (section 131).
10. Require that VA enhance, fund on a centralized basis, and report on, Post Traumatic Stress Disorder and substance use disorder services (section 132).
11. Authorize VA to provide drug and alcohol dependency treatment services to active duty service personnel (section 133).
12. Require that third-party reimbursement and patient copayment funds collected by VA health care facilities be retained by the collecting health care facility (section 134).

13. Extend VA authority to provide evaluations of the health care status of spouses and children of Persian Gulf War veterans and extend the requirement that VA conduct outreach activities to such veterans by issuing newsletters (section 135).

14. Require that VA and the Department of Defense report to Congress on coordination of pharmaceutical and medical supplies procurement (section 136).

15. Require VA, for a one year period, to preserve in effect the fee-for-service reimbursement schedule under which providers of health care services to veterans in Alaska are paid, and to report on the potential adoption of Medicare's Participating Physician Fee Schedule as an alternative formula for reimbursing such care (section 137).

16. Repeal the term limit of four years under which the VA's Under Secretaries for Health and Benefits serve (section 138).

17. Authorize major medical construction projects in Lebanon, Pennsylvania; Fargo, North Dakota; and Kansas City, Missouri (section 141).

#### TITLE II—BENEFITS MATTERS

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

1. Authorize the payment of funeral expenses and plot allowances to World War II Commonwealth Army of the Philippines veterans if, at the time of death, such veterans were citizens of the United States, were residing in the United States, and were either receiving compensation from VA or would have been eligible for pension benefits from VA had such service been deemed to be active military, naval, or air service (section 201).

2. Extend VA authority to maintain a Regional Office in the Republic of the Philippines (section 202).

3. Extend VA authority to establish an Advisory Committee on Minority Veterans (section 203).

4. Extend eligibility for dependency and indemnity compensation benefits to the survivors of former prisoners of war who die after September 30, 1999, and who were rated by VA as totally disabled for at least one year immediately preceding their death (section 204).

5. Repeal the limitation of the payment of compensation, veterans pension, and other benefits to veterans receiving Federally-paid hospitalization, institutional, or domiciliary care and who are determined by VA to be incompetent (section 205).

6. Make clarifying amendments to provisions enacted in the "Veterans Employment Opportunities Act of 1998" (Public Law 105-339), relating to preferences granted to certain veterans in Federal hiring and contracting practices (section 206).

#### TITLE III—MEMORIAL AFFAIRS

Title III contains amendments to titles 36 and 38, United States Code, that would:

1. Establish standards of eligibility for burial in Arlington National Cemetery (section 302).

2. Establish standards of eligibility for inurnment in the columbarium of Arlington National Cemetery (section 303).

3. Codify authority for fundraising by the American Battle Monuments Commission (ABMC) for the establishment of a World War II memorial in Washington, DC, and authorize the ABMC to borrow funds from the Treasury to complete that memorial on a timely basis (section 312).

4. Authorize ABMC to solicit and collect funds (section 313).

5. Authorize ABMC to adopt, use, register, license and enforce trade or service marks, copyrights and patents in connection with fundraising activities (section 314).

#### TITLE IV—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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

1. Authorize the temporary appointment of judges of the United States Court of Appeals for Veterans Claims whose terms have expired or who have retired (section 401).

2. Modify the terms (from 15 to 13 years) of judges who are appointed to positions on the United States Court of Appeals for Veterans Claims that become vacant in 2004 (section 402).

3. Authorize until December 31, 2002, the payment of voluntary separation incentives to judges in the United States Court of Appeals for Veterans Claims who are eligible for retirement (section 403).

#### DISCUSSION

##### TITLE I—MEDICAL CARE

##### Subtitle A—Long Term Care

###### *Background*

VA provides adult day health care services to eligible veterans, but subject to the generally-applicable six-month time limitation that applies to the receipt of VA-paid care at non-VA nursing homes (except when care is provided for a service-connected disability). See 38 U.S.C. §§ 1720(f)(1)(A)(i), 1720(a)(3). In addition, VA provides “respite care” services to eligible veteran-patients limited duration, hospital or nursing home care provided to a chronically ill, home-bound veteran which permits the veteran’s primary care giver, generally, a spouse, a “respite” so that the spouse may attend to needs outside the home. Such care, however, is defined to include only such care as is “furnished in a Department facility.” These services benefit veteran-patients—and VA—by permitting them to defer or avoid hospital and/or nursing home admissions.

###### *Committee Bill*

The Committee bill would remove the above-referenced restrictions. That is, it would (a) allow VA to provide adult day health care services without the temporal limitation applicable to the receipt of non-VA nursing home care; and (b) redefine “respite care” to include, in addition to hospital or nursing home care furnished

in a VA facility, home-based care furnished in the home of the veteran-patient.

#### Subtitle B—Management of Medical Facilities and Property

##### *Background*

VA is authorized by subchapter V of title 38, United States Code, to enter into “enhanced use leases”—long-term leases of underutilized VA properties to nongovernmental entities for monetary or “in-kind” remuneration which improve and maximize the uses of those properties and which, further, advance VA’s missions. VA has leased land under this authority to nursing home care providers where VA places veteran-patients at discounted rates; to providers of transitional housing for homeless veterans and adult day health care services for senior veterans; to providers of child care services for VA employees’ families; and to commercial developers of office space on VA medical center campuses that also house VA regional offices and provide veterans convenience and improved access to services.

VA’s enhanced use lease authority is scheduled to expire on December 31, 2001. That authority, first created by Public Law 102–86, has been repeatedly extended and expanded since enactment of Public Law 102–86. Most recently, Public Law 104–114 removed limitations on the number of enhanced use leases into which VA could enter.

##### *Committee Bill*

Under current law, the maximum terms of enhanced use leases are limited to 35 years in cases where the lessee puts a new structure on VA land, and 20 years in cases where the lessee utilizes an existing structure. 38 U.S.C. § 8162(b)(2). Relatively short lease terms, and distinctions in lease terms based on new construction or existing structures are inconsistent with commercial practice and have hampered VA use of this authority. Accordingly, section 111(a) of the Committee bill would authorize leases with terms of up to 55 years, and eliminate the statutory distinction between leases involving new construction and existing structures.

Currently, VA may only expend funds in furtherance of enhanced use leases appropriated for the VA activity (typically, a VA medical center or a regional office) which will be the recipient of space or services under the lease. Section 111(b) of the Committee bill would amend 38 U.S.C. § 8162(b)(4) to authorize the expenditure of funds appropriated to VA’s minor project construction account to facilitate VA-funded capital activities on land to be leased so that more favorable lease terms can be secured.

As noted above, VA authority to enter into enhanced use leases is currently scheduled to expire on December 31, 2001. Lease negotiations can be quite complex, and development may take years to complete. The parties to complex negotiations need to know that their efforts will not be in vain due to the expiration of statutory authority. Indeed, that contingency has deterred commercial enterprises from negotiating with VA at all. Section 111(c) of the Committee bill would remove that impediment by extending VA’s authority to enter into enhanced use leases now. And it would extend

it for a lengthy enough period—10 years—to assure that such uncertainties will not impede leasing activity.

Section 111(d) of the Committee bill would require VA to provide training and outreach regarding enhanced use leasing to VA medical center staff. Not surprisingly, most such projects are developed in the field where VA employees are most familiar with local interest in VA land and local commercial opportunities. The Committee believes that increased training at the local level—training which has been provided, to date, on a by-request basis and only sporadically—will lead to the identification of more, and better, enhanced use lease opportunities. Similarly, section 111(e) of the Committee bill would require that VA secure an independent assessment of further opportunities for enhanced use leases. The Committee believes that a more systematic and centralized approach would assist the VA in maximizing enhanced use lease opportunities.

#### Subtitle C—Homeless Veterans

##### *Background*

VA and the Department of Labor (DOL) provide assistance to homeless veterans through various mechanisms, both directly and by assisting community-based not-for-profit entities that furnish assistance and services to homeless veterans. VA assistance to community-based organizations takes two primary forms: VA transfers VA-acquired residential properties to such entities for their use to house homeless veterans and their families, see 38 U.S.C. § 3735; and VA makes grants to such entities to assist them in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing services to homeless veterans, see §§ 2–4, Public Law 102–590, *codified at* 38 U.S.C. § 7721 note. DOL is authorized by the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. § 11361 *et seq.*, to provide directly, or through DOL grantees, job training and related services to expedite the reintegration of homeless veterans into the work force. These authorities were most recently extended by the Veterans' Benefits Act of 1997, Public Law 105–114, for a two year period. These extensions were relatively brief in length because the Committee was not then satisfied that VA and DOL were adequately evaluating the effectiveness of programs administered or assisted by the agencies.

##### *Committee Bill*

The Committee bill would extend the above-referenced authorities for two additional years. The Committee is still not satisfied that the effectiveness of programs to assist homeless veterans is adequately measured—or that Federal agencies generally, and VA specifically, have even developed tools through which such measurements might be made. An April 1999 report of the General Accounting Office states as follows:

Despite the resources VA has devoted to homeless programs—over \$640 million between fiscal years 1987 and 1997—VA has little information about the effectiveness of its homeless programs. VA has relied on [the VA Northeast Program Evaluation Center (NEPEC)] to gather and

report information on its homeless programs. Each of VA's homeless program sites routinely submits extensive data, mostly related to client characteristics and operations at individual program sites. These data . . . are of limited use in assessing program effectiveness. To evaluate effectiveness, information must be gathered about intended program results. The outcome measures that NEPEC uses focus on housing, employment, and changes in substance abuse and mental health *at the time veterans are discharged from VA's homeless programs. Little is known about whether veterans served by VA's homeless programs remain housed or employed, or whether they instead relapse into homelessness.*

*Homeless Veterans: VA Expands Partnerships, but Homeless Program Effectiveness Is Unclear* (GAO/HEHS-99-53, April 1, 1999) at 2 (emphasis added). Accordingly, the Committee bill mandates that VA furnish to the Committee, not later than three months after the date of enactment, a detailed plan for the evaluation of programs to assist homeless veterans. That plan, under the Committee bill, would have to contain an identification of outcome measures adopted by VA to determine whether veterans who are provided housing and employment-related services are, in fact, housed and employed six months after housing and employment have been secured under such programs.

#### Subtitle D—Other Health Care Provisions

##### *Emergency Care Services*

###### *Background*

VA does not currently pay for care provided to veterans in non-VA facilities except in limited circumstances. VA will reimburse emergency care provided to veterans who have totally and permanently disabling service-connected disabilities. In addition, VA will reimburse emergency care provided to veterans with less than totally and permanently disabling service-connected disabilities if those service-connected disabilities have been previously adjudicated. Even so, VA will only reimburse emergency care to treat the previously-adjudicated service-connected disability or a disability associated with and aggravated by that service-connected disability. Such services must have been provided in a medical emergency; and must have been provided in a situation where care in a Federal facility was not available. 38 C.F.R. § 17.120.

VA provides a “standard” benefits package to all veterans—whether they have a previously-adjudicated service-connected disability or not—who are enrolled for VA health care under 38 U.S.C. § 1705. This package includes a range of services, including hospital care, inpatient and outpatient primary care and preventive care services, prescription drugs and prosthetic devices, mental health care, rehabilitation care, home health care, and hospice care. This benefits package does not provide emergency care services to enrolled veterans. Enrolled veterans, therefore, must rely on insurance to pay for such services—or they must pay for such services themselves. Large and unexpected emergency medical care



bills can present a significant financial burden to enrolled veterans, a burden which many or most, quite reasonably, did not anticipate when they enrolled for VA care.

The Administration announced, when it submitted its fiscal year 2000 VA budget request, that it intended to propose that emergency care services be provided to some enrolled veterans, but such a proposal was not forthcoming. In any event, that proposal would have requested such a benefit only for service-connected veterans—not all enrolled veterans. On May 27, 1999, Senator Tom Daschle introduced S. 1146, the proposed “Veterans” Access to Emergency Care Act of 1999,” which would have improved all enrolled veterans’ access to emergency medical care services in non-VA health care facilities.

#### *Committee Bill*

Section 131 of the Committee bill was drawn directly from S. 1146 and would require that VA—as a “payer of last resort” pay for emergency care provided to enrolled veterans at non-VA facilities. As the “payor of last resort,” VA would reimburse an enrolled veteran’s emergency care costs to the extent that such costs had not already been reimbursed by Medicare or other third-party payers (health care plans or insurance carriers) from whom the veteran might be entitled to reimbursement. In addition, claims would only be paid by VA in cases where the symptoms displayed were of sufficient severity to cause a prudent layperson to reasonably expect that the absence of immediate medical attention would result in serious jeopardy, in serious impairment to bodily functions, or in serious dysfunction of an organ or body part.

#### *Specialized Mental Health Services*

##### *Background*

From its inception, VA’s health care system has been challenged to meet the special needs of veteran-patients with combat wounds such as spinal cord injuries, amputations, blindness, and post-traumatic stress disorder (PTSD). VA has developed widely recognized expertise in providing specialized services to meet these needs.

In recent years, VA’s specialized programs have come under stress due to budget cuts, reorganizations, and the introduction of a new resource allocation system. In addition, passage of Public Law 104–262, the “Veterans” Health Care Eligibility Reform Act of 1996,” brought significant changes in the way VA provides health care services. In recognition of the potential that “eligibility reform,” if unchecked, might result in the weakening of VA’s specialized services programs, Public Law 104–262 requires that VA maintain capacity to provide for the specialized treatment needs of disabled veterans at the level in existence on the date, October 9, 1996, on which Public Law 104–262 was enacted.

Public Law 104–262 also contained a provision requiring that VA report annually to Congress on the provision of specialized services care. VA’s May 1998 report states that, “by and large, the capacity of the special programs . . . has been maintained nationally.” The General Accounting Office has found, however, that “much more information and analyses are needed to support VA’s conclusion”—

even as so qualified. Finally, VA's Advisory Committee on Prosthetics and Special Disability Programs called VA's data "flawed." It, therefore, declined to endorse VA's 1998 report.

The Committee's minority staff has undertaken an oversight project of 5 specialized services programs—Prosthetics and Sensory Aids services; Blind Rehabilitation services; Spinal Cord Injury (SCI) services; Post-Traumatic Stress Disorders (PTSD) services; and substance use disorder services—to assess VA compliance with Public Law 104–262. Staff has concluded that (a) VA field personnel had been able—but just barely—to maintain the historic levels of services in the Prosthetics, Blind Rehabilitation, and SCI programs; but (b) VA's PTSD and substance use disorder programs are not being maintained in accordance with the mandate of Public Law 104–262. Staff concluded that because of staff and funding reductions and resulting increases in workloads and excessive waiting times, VA is not sustaining services at needed levels in the latter two programs.

VA has reduced inpatient treatment of PTSD and has expanded the use of outpatient programs. That decision has been fueled, in part, by cost concerns. While the Committee does not criticize VA actions to stretch limited funding, it believes that VA must be cautious before it subscribes to the view that, for all veterans, outpatient treatment of PTSD is as effective as inpatient care. Inpatient or bed-based care may be a necessity for seriously ill veterans and for those who are homeless, jobless, or have multiple diagnoses.

It should be noted, however, that successful bed-based programs need not rely on inpatient beds, as traditionally defined. Other promising approaches use "hoptel" or domiciliary beds. Such programs do not require the full range of nursing services or other treatment staff, and they are cost-effective alternatives to traditional inpatient programs. At the same time, such venues provide the physical security and safety that are crucial to the healing process, particularly for homeless veterans or others in marginal living situations.

Substance use disorders also present complex treatment problems. Persons diagnosed with substance use disorders often have physical and psychiatric comorbidities or other psychosocial problems such as homelessness or unemployment. Unfortunately, VA's substance use disorder treatment programs have been under budgetary pressure. Thus, treatment has shifted to outpatient-based settings. At some sites, VA has terminated all inpatient treatment, except short term detoxification. Other VA medical centers have closed inpatient substance abuse disorder beds, but have opened "hoptel" beds or established relationships with halfway houses or other community-based programs to provide VA outpatients with needed lodging. Not all VA facilities, however, have made such efforts. Many have closed inpatient units without developing other treatment alternatives. It is the Committee's view that VA mental health treatment programs, in general, have been eroded.

#### *Committee Bill*

Section 132 of the Committee bill mandates that VA enhance specialized mental health services—specifically PTSD and sub-

stance use disorder treatment services—provided to veterans. It requires that resources be directed to the development of: additional outpatient and residential treatment facilities in locations that are currently underserved by PTSD programs; programs which place emphasis on both short- and long-term residential treatment programs for veterans with PTSD—especially those with comorbidities; outpatient PTSD programs to provide follow up and case management services; and increased staffing for PTSD programs that have exceeded workload projections.

With respect to substance use disorder services, the Committee bill requires that resources be directed to the development or expansion of: residential treatment facilities; opioid substitution treatment services; and services at sites where treatment has been curtailed, where demand for services is high, or where large populations with substance use disorders are served.

Section 132 is aimed at improving mental health services by requiring that mechanisms for funding services within the Veterans Integrated Service Networks, and at individual facilities, be *centralized*. It is not aimed at rebuilding the traditional inpatient infrastructure; rather, it seeks to focus on expanding outpatient and residential treatment facilities, developing better case management, and generally improving the availability of services.

#### *Drug and Alcohol Dependency Treatment Services*

##### *Background*

Subject to limitations imposed under current law, VA is authorized by section 1720A(c) of title 38, U.S. Code, to provide treatment and rehabilitation services to active duty service personnel who are dependent on or abuse alcohol or drugs—but only during the last thirty days of the service member’s enlistment period or tour of duty, and only if the service member requests such services during the last thirty days of his or her enlistment period or tour of duty.

It is the Committee’s view that VA and the Department of Defense (DOD) should share, exchange, and mutually use their respective health care resources, subject to reimbursement, to the maximum extent practicable in order to improve both the quality, and the efficiency, of the services provided by each. *See* 38 U.S.C. § 8111. VA has opined that the 30-day limitation imposed by section 1720A(c) is inconsistent with the policies expressed by section 8111 and has, accordingly, requested that the limitation be stricken.

##### *Committee Bill*

The Committee bill would strike the 30-day limitation imposed by 38 U.S.C. § 1720A(c). The Committee concurs in the view that, subject to space availability and appropriate reimbursement by DOD, active duty service members ought to have access to VA’s expertise in treating drug and alcohol abuse and dependence disorders without regard to whether they will be “veterans” within a 30-day period or any other arbitrary time frame.

### *Medical Care Collection Fund*

#### *Background*

In connection with the providing of health care services to veterans, VA collects or recovers funds from two major sources: (a) from “non-priority” veterans who are required to make co-payments when they receive inpatient or outpatient care services, *see* 38 U.S.C. §§ 1710(f) and 1710(g), and prescription medications, *see* 38 U.S.C. § 1722A; and (b) from third parties (*e.g.*, veterans’ health care plans or health insurance carriers, workers’ compensation programs, etc.) that would be responsible for either providing, or paying for, care for a veteran’s non-service-connected disabilities were they not treated by VA, *see* 38 U.S.C. § 1729. In addition, VA is authorized to provide emergency care, as a humanitarian service, to any person in emergency need. But VA is required to charge fees for such services. *See* 38 U.S.C. § 1711. Such “Medical Care Collections Fund” (MCCF) monies are collected locally by the VA medical center or clinic which provides the services giving rise to the receipt of funds.

Section 8023 of the Balanced Budget Act of 1997 (Public Law 105–33) specifies that VA will retain MCCF funds collected (rather than remitting them to the Treasury) and, further, that VA’s “designated health care regions” (under the Veterans Health Administration’s current organizational structure, its 22 “Veterans Integrated Service Networks” (VISNs)) shall retain collected MCCF monies for spending within each VISN. The purpose of these provisions was to stimulate collections by VA as a whole by providing an incentive for VA collectively to pursue owed funds, and, equally, by providing incentives *to the actual collectors of funds—the local medical centers and clinics*—for the aggressive pursuit of funds owed to VA. The Committee, however, supported VA’s request that such funds be retained and managed at the VISN—rather than at the local medical center—level in order to foster the integration of VA’s networks as coherent, integrated health care providers. The Balanced Budget Act reflects that support.

#### *Committee Bill*

The Committee continues to support the concept of health care delivery to veterans from the template of integrated networks. It is, however, concerned that MCCF recoveries (scheduled to rise, according to VA estimates, by less than 20 percent to \$749 million in fiscal year 2000) will be insufficient to allow VA to meet its stated goal of securing 10 percent of its medical care funding needs from non-appropriated sources by fiscal year 2002. The Committee bill, therefore, would increase the incentives for collections by local VA medical centers by modifying the Balanced Budget Act to specify that, henceforth, MCCF funds will be retained by each collecting VA health care facility.

### *Pharmaceuticals Procurement*

#### *Background*

As noted above, the Committee held a hearing on January 29, 1999, on the findings and recommendations of the Commission on

Servicemembers and Veterans Transition Commission (hereafter, the “Commission”). It received testimony from former Senator Robert J. Dole (the sponsor of legislation creating the Commission); from Anthony J. Principi, the Chairman of the Commission; and from representatives of VA and DOD.

Among the findings made by the Commission were the following:

1. In 1998, segmented purchasing by the federal healthcare sector is wasteful and makes no sense when it results in the loss of the quantity discounts that the private sector has demonstrated are possible.

2. VA already procures medical surgical supplies for virtually the entire federal healthcare sector except DoD.

3. DoD and VA could applying [sic] the savings realized from combining their purchasing power for pharmaceuticals, as well as medical/surgical supplies and equipment, to increase the amount of healthcare provided to their beneficiaries \* \* \*

4. Joint purchasing of pharmaceuticals as well as medical/surgical supplies and equipment would allow the Departments to develop additional procurement leverage \* \* \*

5. A clinically based joint DoD/VA formulary would improve cost-effectiveness of pharmacy operations, without compromising healthcare for beneficiaries.

6. Application of universal product numbers to medical surgical [sic] supplies would result in procurement savings by encouraging price competition for the purchase of standardized products.

Based on these findings, the Commission recommended, among other things, that legislation be enacted to:

1. Require DoD and VA to establish a single joint DoD/VA procurement office to purchase, in the most cost-effective manner possible, DoD/VA pharmaceuticals, as well as medical/surgical supplies and equipment.

2. Require DoD and VA to follow the example of large private sector healthcare systems by developing a clinically based joint formulary within one year.

3. Require that medical and surgical supplies be assigned universal product numbers (similar to those assigned to pharmaceuticals).

#### *Committee Bill*

The Committee bill requires that VA and DOD submit to the Congress, on or before March 1, 2000, a report on VA and DOD cooperation in the procurement of pharmaceuticals and medical supplies. The Committee expects to then determine whether a statutory mandate will be required to assure that VA and DOD take appropriate action to exercise their market power for the benefit of their beneficiaries and the taxpayer.

#### Subtitle E—Major Medical Facility Projects Construction Authorization

##### *Background*

VA may not obligate or expend funds on any “major medical facility project” unless that project has been specifically authorized by law. 38 U.S.C. § 8104. A “major medical facility project” is one

that would involve the construction, alteration, or acquisition of a medical facility involving the total expenditure of more than \$4 million.

VA has previously been authorized to proceed with the major medical facility projects during fiscal years 1999 and 2000 at the following sites and in the following amounts: Long Beach, California (\$23.2 million); San Juan, Puerto Rico (\$50 million); Washington, D.C. (\$29.7 million); Palo Alto, California (\$22.4 million); Cleveland (Wade Park), Ohio (\$28.3 million); Tucson, Arizona (\$35 million); Dallas, Texas (\$24.2 million); Lebanon, Pennsylvania (\$23.2 million); Tampa, Florida (\$46.3 million). *See* section 701 of Public Law 105–368. Public Law 105–276 appropriated funds for fiscal year 1999 for the Long Beach, San Juan, Cleveland, Tucson, and Lebanon projects. The Committee continues to support the remaining projects which were authorized by Public Law 105–368: Washington, D.C.; Palo Alto; Dallas; and Tampa.

#### *Committee Bill*

Subtitle E of title I of the Committee bill would add three additional major medical facility projects to those already authorized by Public Law 105–368: a long term care facility at Lebanon, PA (\$14.5 million); renovations and environmental improvements in Fargo, ND (\$12 million); and a surgical suite and post-anesthesia care unit project in Kansas City, MO (\$13 million).

The Lebanon, PA project is the second part of a two phase long-term care project. The first phase was authorized by Public Law 105–368 and consisted of a \$9.5 million nursing home renovation to provide 90 transitional care unit, and 22 subacute, nursing home beds. The second phase will involve renovations to provide the following forms of long term care other than nursing home care: a 38-bed unit to treat veterans suffering from dementia and behavioral health disorders and illnesses; an adult day health care unit; a 22 bed hospice care unit that is currently located—inappropriately—adjacent to the surgical ward within the acute care hospital unit; and a 30 bed personal care unit to be operated by the Commonwealth of Pennsylvania under an “enhanced use lease” agreement.

Long term care is the most pressing need of the aging World War II and Korean War generation; the total number of veterans over the age of 85 will increase every year until the year 2015. Yet it is a need which VA has not been able to meet within current or projected funding levels. The Committee believes that VA needs to test and demonstrate treatment and care alternatives at a single comprehensive care facility; it intends that the two-phase Lebanon VA Medical Center project serve as a model, and a test site, for VA and private sector health care providers. The Lebanon VA Medical Center is uniquely suited to that purpose; 46% of its South Central Pennsylvania patients are age 65 or over and, of these, 80% are priority enrollment patients under section 1705 of title 38, United States Code. Finally, Pennsylvania veterans are, on average, among the oldest in the Nation, exceeded in age only by Florida’s veterans. Thus, the need for long term care services in Pennsylvania is acute.

The Fargo, North Dakota, project would provide for environmental improvements—including asbestos removal, fire safety im-

provements (alarms and sprinklers), patient privacy and handicapped accessibility improvements, and the installation of a central air conditioning system—to two patient care floors in Building 9 of the medical center. The Fargo VA Medical Center has positioned itself well to handle the VA's shift toward outpatient care by recently completing an ambulatory care addition and undertaking a minor project to renovate existing ambulatory care space for increased efficiency and patient privacy. The inpatient areas which must remain desperately need to be upgraded to comply with modern health care standards. In a climate where temperatures can reach over 105 degrees in the summer, air conditioning is a necessity for patient care and customer satisfaction.

The Kansas City, Missouri project would involve the construction of a new surgical suite and post anesthesia care unit to replace an aging—and, literally, crumbling—suite that was constructed in the late 1950's. Deficiencies were noted at the existing suite by the Joint Commission on Accreditation of Healthcare Organizations, including a lack of sterile and proper infection control conditions, poor airflow, patient privacy deficiencies and other deficiencies. In short, the current facility is, at best, inadequate to accommodate current and future surgical technology.

## TITLE II—BENEFITS MATTERS

### *Burial Benefits to Certain Filipinos*

#### *Background*

The Philippine Islands became a U.S. possession at the conclusion of the Spanish-American War in 1898, and remained a U.S. possession until 1946. Public Law 73-127, enacted in 1934, established the Philippine Islands as a Commonwealth which had certain powers relating to its internal affairs and the power to organize and maintain a Commonwealth Army. The United States reserved the right to place all Commonwealth forces under U.S. command between 1934 and the date of Philippine independence (July 4, 1946), should events so require. President Roosevelt so exercised this authority on July 26, 1941, and brought the Philippine Commonwealth Army under the command of the U.S. Army Forces of the Far East (USAFFE). During World War II, certain organized guerrilla resistance units were recognized by the U.S. Army as having fought under U.S. command; these units are now recognized to have been part of the Philippine Commonwealth Army. Members of the Philippine Commonwealth Army remained under command of the USAFFE until June 29, 1946.

After World War II, Congress limited the size and scope of U.S. veterans' benefits available to Commonwealth Army veterans, taking into consideration differences in the costs-of-living in the United States and the Philippines and the newly-independent Nation's responsibility to care for its own veterans. It did not, however, make Commonwealth Army veterans ineligible for U.S. benefits. Then—and now—former members of the Commonwealth Army may qualify for disability compensation, burial benefits, and National Service Life Insurance benefits, and their survivors may qualify for Dependency and Indemnity Compensation. Such benefits, however, are provided at half the rate they are provided to

U.S. veterans due to the difference in the cost of living in the Philippines relative to the United States. Commonwealth Army veterans are not eligible for other VA benefits, including pension payments, health-care benefits (except on a space-available basis, in the United States, for service-connected disabilities), burial in the national cemeteries, or readjustment benefits.

Many Commonwealth Army veterans perceive the limitation on U.S. benefits as an injustice. They argue that having served under U.S. command, they merit the same benefits as U.S. veterans. Others contend, however, that continued differences in the cost of living in the Philippines relative to the United States justify the payment of benefits at a one-half rate and that, in any event, U.S. benefits to Commonwealth Army veterans were not limited solely on cost-of-living grounds but also in recognition of the responsibilities of the newly-independent Republic of the Philippines. The Committee believes this position has validity—but, even so, the justification for one-half benefits is weakened when it is applied to Commonwealth Army veterans who are now United States citizens resident in the U.S.

#### *Committee Bill*

The Committee does not now conclude that benefits afforded to Commonwealth Army veterans are inequitable. A number of factors were taken into account—not just the cost-of-living issue—in determining the size and scope of benefits to be made available to Commonwealth Army veterans. Notwithstanding, the cost-of-living issue was a significant—if not determinative—concern.

In view of the foregoing, section 201 of the Committee Bill would provide, in cases of death after enactment of section 201, a full-rate funeral expense and plot allowances (\$300 and \$150, respectively) to Philippine Commonwealth Army veterans who, at the time of death: (a) are naturalized citizens of the United States resident in the United States; and (b) are receiving compensation for a service-connected disability or would have been eligible for VA pension benefits had their service been deemed to have been active military, naval, or air service.

#### *DIC Benefits to Survivors of Former POWs*

##### *Background*

VA pays dependency and indemnity compensation (DIC) benefits under chapter 13 of title 38, United States Code, to the surviving spouse, dependent children, and dependent parents of service members who have died during active duty, and to the surviving spouse, children, and dependent parents of veterans who have died after service as a result of a service-connected condition. In addition, VA provides benefits in the same amount as DIC to the surviving spouse and children of veterans who have died after service from a non-service-connected cause if the veteran had been totally disabled due to a service-connected cause for a continuous period of 10 or more years immediately preceding death or for a continuous period of at least 5 years after the veteran's release from service. 38 U.S.C. § 1318. In cases of death after December 31, 1992, a surviving spouse is paid DIC, in 1999, at a rate of \$861 per month as



supplemented if the spouse is housebound or in need of regular aid and attendance and as further adjusted to account for the number of dependent children the deceased veteran left. The survivors of former prisoners of war (“POWs”) are eligible for DIC benefits under the same rules as other veterans.

Approximately 52,000 former POWs are alive today; all but 3,000 are veterans of World War II and almost all of the remaining 3,000 are veterans of the Korean War. About 2,000 former POWs are totally disabled, but many are WWII former POWs who will not likely meet the “10 year rule” noted above. The widows of these former POWs—they are overwhelmingly men—will not be eligible for DIC and could, therefore, be left destitute despite the fact that their spouses endured the most arduous of service conditions.

#### *Committee Bill*

Section 204 of the Committee bill would provide for payment of DIC to the survivors of former POWs who have died from non-service-connected causes if the former POW was totally disabled due to a service-connected cause for a period of one or more years (rather than 10 or more years) immediately prior to death.

#### *Repeal of Limitation on Benefits to Incompetent, Institutionalized Veterans*

#### *Background*

Under current law, VA is prohibited from paying compensation and pension benefits to an incompetent veteran who has assets of \$1500 or more if the veteran is being provided institutional care by VA (or another Federal provider) and he or she has no dependents. Such payments are restored if the veteran’s assets drop to \$500 in value. 38 U.S.C. § 5503(b). The threshold dollar amounts (\$1500 and \$500) specified by section 5503 have not been updated since they were established in 1933.

#### *Committee Bill*

Section 205 of the Committee bill would repeal the limitation on benefits payments imposed by section 5503.

Most fundamentally, the Committee notes that the purpose of section 5503 appears to be to prevent the accumulation of large “unneeded” estates by incompetent veterans who are institutionalized for long periods of time and who have no one dependent upon them for support. Presumably, such persons (like prisoners, *see* 38 U.S.C. §§ 5313, 5313(A) do not need the money if they have no “outside” obligations and all of their needs are being provided for by VA. However, if it is true that members of the former group do not need the money for these reasons, it is equally true that *competent* persons in the same position do not need the money. Yet their benefits are not reduced; there is no prohibition against the payment of benefits to institutionalized *competent* veterans who have no dependents.

Apart from the more fundamental issues raised by section 5503, the Committee notes that the threshold amounts of the statute have not been updated since 1933. The purposes and the practical impact of the statute have been wholly distorted by that fact. In

1933, the \$1500 threshold amount affected few recipients of compensation or pension benefits; at that time, when a totally disabled veteran received a benefit of \$45 per month, a veteran would have to have been in receipt of benefits for many months before the statutory cutoff was triggered. In 1999, however—after 66 years of inflation—the receipt of one compensation check provided to a 100% service-connected veteran, \$1,989, triggers the suspension of payments. Similarly, there was a time—presumably, in 1933—when \$500 was an adequate sum of money to allow a newly deinstitutionalized, formerly incompetent, veteran to reestablish a life outside the hospital. Today, however, a formerly incompetent person who leaves institutional care with only \$500 is, at best, highly vulnerable. That sum of money does not, in today's economy, suffice to provide for basic necessities of life for a period of a month or more between discharge and the resumption of VA compensation or pension payments. Finally, during the Great Depression, long-term hospitalization for mental illness was commonplace. Today, hospital stays—even hospital stays by persons deemed to be incompetent—are shorter in term. VA, therefore, finds itself in a position of cutting off benefits precipitously even during a relatively short hospitalization only to be faced with the need to restart them immediately upon release. Thus, the dated statutory thresholds are not only burdensome to veterans. They needlessly impede VA's efforts to reduce the workload backlogs in its regional offices.

### TITLE III—MEMORIAL AFFAIRS

#### Subtitle A—Arlington National Cemetery

##### *Background*

Since late 1997, when a deceased ambassador, who had been buried in Arlington National Cemetery in January, 1996, was exhumed after it was revealed that he had falsely claimed to have been a veteran of World War II, questions have been raised concerning eligibility for burial in Arlington and whether such standards are adequately known by, and revealed to, the public; whether exceptions to allow the burial of ineligible persons there have been properly granted in the past; and whether exceptions should be granted in the future. The Committee has studied these issues closely, and has made a number of findings including the following:

1. From 1948 until 1967, all veterans were generally eligible for burial in Arlington. In 1967, however, the Department of the Army adopted policies, by regulation, limiting eligibility for burial there to slow the rate of new burials and to extend the "life" of the then-rapidly filling cemetery.

2. The 1967 regulations generally limited eligibility to service personnel who died in service, to retired career service members, to veterans who distinguished themselves either in service (by, for example, meriting specified decorations) or after service (by, for example, holding high public office), and to those persons' immediate family members. In the Committee's view, those regulations are generally reasonable—but they merit adjustment. Further, it is appropriate and necessary that such standards be established *by statute*.

3. The practice of granting exceptions to allow the burial of persons who are not eligible for burial in Arlington was authorized by statute in 1948, *see* Act of May 14, 1948, 62 Stat. 234. That statute, however, was repealed in 1973, *see* Public Law 93-43. Since 1973, there has been no specific statutory authorization of that practice in place. Moreover, that practice has not been delineated by regulation or any binding policy document. Rather, it has evolved, and it appears to exist today, on a purely *ad hoc* basis.

4. Of the more than 250,000 persons buried or inurned at Arlington since the Civil War, fewer than 200 (less than one-tenth of 1%) are ineligible persons who have been granted exceptions. Of these, the majority are exceptions which have allowed the burial of an eligible person's *non-immediate* family members, most often in the same plot as the eligible person.

5. Of the minority of exceptions granted to persons other than non-immediate family members of eligible veterans, most (over 80%) have been granted *to veterans* who were entitled to inurnment in Arlington's columbarium. Fewer than 20 persons among the 250,000+ who are buried or inurned in Arlington are non-veteran, non-family members who were buried or inurned in Arlington pursuant to an exception.

6. It does not appear that an excessive number of exceptions have been granted by Arlington over the years. Nor does it appear that exceptions have ever been granted on inappropriate grounds such as political influence or favoritism. The exceptions process, however, has not followed set, written, and publicly-available standards or formal precedents. As a consequence, it is inherently arbitrary.

7. Until recently, Arlington did not report to Congress when exceptions were granted. Accordingly, oversight has been sporadic and uneven.

#### *Committee Bill*

The Committee bill addresses the issues raised by the above-summarized findings. First, it would establish *statutory* standards for burial in Arlington National Cemetery. Generally, the standards would remain as they are now: Arlington would be reserved as a burial site for service members who had died in service; for retired career service members; for non-career service veterans who had distinguished themselves in or after service by receiving decorations for valor, by being former prisoners of war, or by holding senior post-service civilian offices; and for their families. Under the Committee bill, however, persons qualified for burial on the basis of post-military Government service would be limited to the Vice President, Members of Congress, Justices of the United States Supreme Court, Cabinet members, and—a new category—persons who, while serving in the foreign service or the national security services, were killed abroad due to hostile action in the course of such service. In addition, the Committee bill would authorize the burial of any former President in Arlington, whether he or she had served in the military or not. These persons, and their family members, would be the only persons “automatically” eligible for burial in Arlington.

The Committee notes that its rules would expand the categories of family members who would be eligible for burial in Arlington—but only in cases where such family members are buried in the same plot as an eligible person. In such cases, allowing family members to “share” a single plot will not result in either the premature “filling” of Arlington or the inability of any eligible person to gain burial there due to space limitations. The Committee intends that its expansion of family member eligibility will result in a significant reduction in requests for exceptions allowing the burial of ineligible deceased persons in Arlington. The Committee also notes that the Committee bill’s allowance of the burial of diplomatic and national security personnel who are killed by hostile action overseas would render an additional category of historic exception requests unnecessary.

Despite these adjustments to the current eligibility standards set by regulation, the Committee has still concluded that there needs to be a mechanism in place by which requests on behalf of persons who are not eligible for burial might be considered. In the past, distinguished veterans (*e.g.*, Joe Louis) and non-veterans (*e.g.*, Justice Thurgood Marshall) have been granted exceptions. The Committee cannot conclude that such persons do not merit consideration. Accordingly, the Committee bill would authorize the Secretary of Defense to grant exceptions in cases involving ineligible *veterans*, and authorize the President—and only the President—to grant exceptions in rare cases where a *non-veteran* might have served the Nation with such distinction that he or she might appropriately be considered for burial there. As Arlington, however, is properly viewed as a final resting place for those who have borne arms in defense of the Nation, such cases would be, in the Committee’s view, extremely rare.

To assure ongoing and systematic oversight of the exceptions process, the Committee bill would require that the Committees on Veterans Affairs of the Senate and the House of Representatives be notified within 72 hours of the granting of any exception. In addition, notices of all such exceptions would be published in the *Federal Register*. Finally, the Committee bill would require that Arlington National Cemetery maintain a publicly-available register identifying all persons buried in Arlington after January 1, 1997, and specifying the basis for each deceased person’s eligibility for burial there.

#### Subtitle B—World War II Memorial

##### *Background*

Public Law 103–32 authorizes the American Battle Monuments Commission (ABMC) to establish a World War II Memorial in or near Washington, DC. That Memorial will honor the 16 million servicemembers who served during World War II, the 406,000 service members who died, and the millions of Americans who supported the war effort from home.

The authorizing statute requires that ABMC solicit funds for the Memorial from private contributors and that construction be financed with those funds. In addition, the authorizing statute requires that ABMC comply with the provisions of the Commemora-

tive Works Act, 40 U.S.C. §1001 *et seq.*, which mandates, among other things, that (a) the Memorial's site and design proposal be approved by the National Capital Planning Commission, the Commission of Fine Arts, and the Secretary of the Interior; and (b) that sufficient funds (including 10% of the total construction cost to cover perpetual maintenance of the Memorial) be collected before construction is initiated. In addition, the Commemorative Works Act specifies that all authorizations of commemorative works will expire seven years from the date of enactment. In the case of the World War II Memorial, such authority will expire on May 25, 2000.

ABMC expects that it will gain final design approval for the Memorial in late 1999. Securing 110% of the funds needed to complete the Memorial before the expiration of the Memorial's authorization, however, is a challenge that will likely not be met. As of June, 1999, ABMC had raised \$60 million (in cash or in the form of pledges) of an estimated \$100 million needed for full construction and maintenance costs. \$30 million was raised in the first half of 1999 alone, indicating wide and growing public support for the Memorial spurred, in part, by the efforts of actor Tom Hanks to build public support for the Memorial. Unfortunately, much of the money that ABMC has raised is in the form of pledges—pledges from large corporations that appear to be secure, but which will be collected in yearly increments over a four to five year period.

ABMC now estimates that the start of Memorial construction will be delayed until 2003 (necessitating, at minimum, a reenactment of the Memorial's soon-to-expire authorization), with completion of the project to occur in 2005. This projected delay is a major concern for the Committee; 1,000 World War II veterans die each day. A three year delay in Memorial construction will mean that approximately 1.2 million veterans will not be able to view the long awaited monument to their service.

In its fiscal year 2000 budget submission, the Administration requested legislation to extend the period of time within which construction of the Memorial must be initiated until December 31, 2005. In addition, the Administration requested that ABMC's fundraising capabilities be enhanced by authorizing ABMC to secure and enforce patent, copyright and other intellectual property interests, and by permitting ABMC to accept voluntary services in furtherance of the Memorial. Finally, the Administration requested that ABMC be directed to promulgate integrity guidelines to govern the acceptance and disbursement of funds.

#### *Committee Bill*

The Committee concurs with the Administration's legislative request—insofar as it goes. The Committee bill, therefore, extends the authorization for construction of the Memorial to December 31, 2005. Such an extension will eliminate the current requirement that, at minimum, a construction permit be obtained by May 25, 2000; it will, therefore, permit ABMC to proceed in an orderly fashion. Further, the Committee bill requires that ABMC establish written integrity guidelines, as requested. In addition, it contains provisions making explicit ABMC's implied authority to accept voluntary services and, further, affording volunteers protections

should they become injured or incur expenses while fulfilling Memorial-related volunteer duties. Finally, the Committee bill contains the intellectual property protections requested by ABMC. The Committee anticipates that ABMC's ability to obtain corporate contributions would be greatly enhanced through *appropriate* trademark licensing, and similar, programs (as were conducted by DOD to gain contributions in support of commemoration events marking the 50th anniversary of World War II).

The Committee is of the view that these authorities—and, more importantly, growing public support of the Memorial—will assure that the Memorial will be built in due course. The Committee, however, does not anticipate that construction be delayed further. To the contrary, the Committee expects that ground will be broken for the Memorial on Veterans Day, 2000. The Committee bill, accordingly, contains an additional provision not requested by the Administration: a “special borrowing authority” provision.

As noted above, the Commemorative Works Act requires that full construction and maintenance cost funds actually be in hand before actual construction of the Memorial can begin. So that ABMC can meet this requirement, and still proceed with the Memorial now, the Committee bill authorizes ABMC to borrow up to \$65 million from the Treasury subject to maturity and repayment terms, and other conditions as agreed upon by the Secretary of the Treasury and ABMC. The practice of borrowing money against future pledges is common in the private sector; it was used to fund the Statue of Liberty-Ellis Island project, the Japanese American National Museum in Los Angeles, and other projects where ground was broken before full construction funding had been collected, and it did not hamper the collection of contributions for these projects.

#### TITLE IV—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

##### *Background*

The U.S. Court of Veterans Appeals, renamed the U.S. Court of Appeals for Veterans Claims (hereafter, the “Court”) in 1998, *see* section 511 of Public Law 105–368, was created in 1988 by Public Law 100–687. The Court has exclusive jurisdiction to review decisions of the VA’s Board of Veterans’ Appeals (hereafter, “BVA”), an administrative body within VA that decides questions of fact and law affecting the provision of benefits by VA. 38 U.S.C. § 7104. Matters are appealed to BVA upon the filing of a “notice of disagreement” and a “substantive appeal” by a claimant who seeks review of a VA regional office decision on a claim for benefits. 38 U.S.C. § 7105. A claimant may generally appeal an adverse BVA decision to the Court by filing a “notice of appeal” within 120 days of a final BVA decision. 38 U.S.C. § 7266.

The Court is comprised of one chief judge and six associate judges. All but one of these judges (hereafter, the “original judges”) were appointed for 15-year terms during a 16-month period in 1989-1991 following the creation of the Court. (The seventh current judge was appointed in November 1997 for a 15-year term to fill the vacancy created by the death of Judge Hart Mankin, one of the

original judges.) All six of the remaining original judges' terms will expire within a 16-month window in 2004–2005.

The Court has requested legislation to authorize one judge per year to retire before the end of his term, with minimal reduction in retirement benefits, in order to allow for an orderly, and non-simultaneous, transition from the first generation of judges to a second. The Court-requested legislation also contained provisions to modify and clarify the Court's retirement and survivors' annuity benefits.

#### *Committee Bill*

Title IV of the Committee bill would do three things: it would authorize judges whose terms have expired to continue to serve on a temporary basis until their successors take office; it would offer an incentive to judges to retire as soon as they are eligible (rather than waiting for the expiration of their 15-year terms); and it would modify the terms of some judges yet to be appointed so that the simultaneous expiration of terms will not occur again in or around 2015.

As matters currently stand, it is possible that the Court will have six vacancies in 2004–2005. Clearly, the Court could not operate in such circumstances. Thus, section 401 provides that judges whose terms have expired would be authorized to continue to serve in a temporary status until their seat is filled or their service is no longer required. Judges whose terms had expired and who were eligible for retirement would receive 50 percent of the salary of sitting judges and full retirement benefits while serving in temporary status; judges who are not retirement eligible would continue to draw full salary. In all cases, judges serving in temporary status could elect to continue contributing to their retirement and/or survivors' annuity programs during the length of their temporary service.

Section 402 of the Committee bill would stagger the term expiration dates of judges appointed to succeed those whose terms will have expired in 2004 by reducing the terms of those appointees from 15 to 13 years. Thus, if these vacancies are filled in the same year the vacancy is created and the new appointees serve their complete terms, 2004 appointees would serve until 2017 and 2005 appointees would serve until 2020—and the prospect, as in 2004–2005, of *en masse* term expirations will be mitigated.

As noted above, a judge whose term has not yet expired may nonetheless be eligible to retire if the sum of his or her age and years of service on the Court (but not fewer than 10 years) equals 80. 38 U.S.C. §7296(b)(1) (the “rule of 80”). In order to encourage the retirement of judges who will satisfy the rule of 80 prior to December 31, 2002, but whose terms will not expire until 2004–2005, section 403 of the Committee bill would provide a retirement incentive of \$25,000. The Committee's sole purpose is to avoid simultaneous retirements in 2004–2005 and to allow the initial members of the Court's second generation of judges to be seated and to gain their judicial bearings prior to the appointment of the remainder of judges to succeed those whose terms will expire in 2004–2005.

The Committee notes that, if there is a vacancy in the position of chief judge, the senior associate judge serves as acting chief

judge unless the President designates another of the associate judges to so serve. 38 U.S.C. §7254(d). If the chief judge (or acting chief judge) were to retire prior to the expiration of his or her term, and he or she were to elect to serve in temporary status as authorized by section 401 of the Committee bill, the Committee does not envision that a judge serving in temporary status would continue to serve as chief judge (or acting chief judge) during such temporary status even if such temporary service were to occur within the bounds of the judge's 15-year term. The critical work of the chief judge must, in the Committee's view, be performed by a sitting judge, not one serving in temporary status. The Committee anticipates that it will review this issue, and others involving succession to the office of chief judge, further.

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 CBO, estimates that enactment of the Committee bill would result in increases in direct spending, as compared to costs under current law and as scored against the current CBO baseline, of \$66 million during fiscal year 2000, and by \$385 million during fiscal years 2000 through 2004. In addition, enactment of the Committee bill would result in increases in outlays of \$138 million during fiscal year 2000 and \$1.885 billion during fiscal years 2000 through 2004 assuming appropriations of the necessary amounts. The Committee bill would not affect the budgets of State, local or tribal governments, and would impose no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act.

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 21, 1999.*

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. 1076, the Veterans Benefits Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure  
cc: Honorable John D. Rockefeller  
Ranking Minority Member



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

## S. 1076

## VETERANS BENEFITS ACT OF 1999

*As ordered reported by the Senate Committee on Veterans Affairs on June 23, 1999*

*Summary*

The Veterans Benefits Act of 1999 contains provisions that would affect a wide range of veterans' programs, including medical care, disability compensation, dependency and indemnity compensation (DIC), and the American Battle Monuments Commission (ABMC). CBO estimates that enacting the bill would increase direct spending by about \$66 million in 2000, \$385 million over the 2000–2004 period, and \$802 million over the 10–year period 2000–2009. Because the bill would affect direct spending, pay-as-you-go procedures would apply. In addition, the bill would authorize funding or modify provisions governing a number of discretionary veterans' programs, which would result in additional outlays of \$138 million in 2000 and \$1,885 million over the 2000–2004 period, assuming appropriation of the necessary amounts. S. 1076 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on the budgets of state, local, or tribal governments.

*Estimated cost to the Federal Government*

The estimated budgetary impact of the bill is shown in Table 1. The costs of this legislation fall within budget function 700 (veterans affairs).

*Basis of Estimate Direct Spending*

The bill would affect direct spending in memorial affairs and veterans' programs for disability compensation, DIC, and burial benefits (see Table 2).

TABLE 1. BUDGETARY IMPACT OF S. 1076, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON VETERANS' AFFAIRS

	By Fiscal Year, in Millions of Dollars					
	1999	2000	2001	2002	2003	2004
<b>DIRECT SPENDING</b>						
Proposed Changes:						
Estimated Budget Authority .....	0	72	75	142	78	79
Estimated Outlays .....	0	66	75	87	78	79
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
Proposed Changes:						
Estimated Authorization Level .....	<sup>1</sup>	366	330	395	422	443
Estimated Outlays .....	<sup>1</sup>	138	364	457	465	461

<sup>1</sup> Less than \$500,000.

*Payments to Veterans in Institutions.* Under current law, the Department of Veterans Affairs (VA) withholds benefit payments from certain incompetent veterans who are institutionalized at the government's expense and whose estates are valued above \$1,500. Sec-

tion 205 would repeal this \$1,500 limit, thereby enabling more veterans to receive benefit payments.

The budgetary impact of this provision would depend on how many veterans would begin receiving benefits and the value of the benefits. Information from VA indicates that about 3,300 veterans each month would benefit from the bill. Those veterans have neither a spouse nor a child and are being furnished hospital treatment or domiciliary care without charge. Based on information from VA, CBO expects that 90 percent of those veterans are considered totally disabled and thus would be eligible to receive benefits of about \$24,500 a year, and that the remaining 10 percent would receive annual benefits of about \$7,000, an amount corresponding to an average disability rating of 50 percent. Thus, CBO estimates that implementing this provision would raise direct spending by about \$75 million a year.

*Spouses of Former Prisoners of War.* Section 204 would authorize the payment of DIC to the surviving spouses of certain former prisoners of war (POW) who, at the time of death, had a service-connected disability rated totally disabling for at least one year.

TABLE 2. ESTIMATED CHANGES IN DIRECT SPENDING UNDER S. 1076 AS ORDERED REPORTED

[By fiscal year, outlays in millions of dollars]

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
<b>DISABILITY COMPENSATION</b>											
Spending Under Current Law .....	17,968	18,761	19,495	20,113	20,645	21,152	23,469	22,266	20,954	23,353	23,945
Proposed Changes:											
Veterans in Institutions .....	0	66	74	75	75	76	83	77	71	77	78
Spouses of Former POWs .....	0	a	1	2	3	3	4	4	5	6	8
Subtotal .....	0	66	75	77	78	79	87	82	77	84	86
Spending Under S. 1076 .....	17,968	18,827	19,570	20,190	20,723	21,231	23,556	22,348	21,031	23,437	24,031
<b>AMERICAN BATTLE MONUMENTS COMMISSION</b>											
Spending Under Current Law .....	13	11	7	6	85	13	5	1	1	0	0
Proposed Changes:											
Borrowing Authority .....	0	0	0	10	0	0	0	0	0	0	0
Spending Under S. 1076 .....	13	11	7	16	85	13	5	1	1	0	0
<b>TOTAL PROPOSED CHANGES</b>											
Estimated Outlays <sup>1</sup> .....	0	66	75	87	78	79	87	82	77	84	86

<sup>1</sup> Less than \$500,000.

Under current law, DIC payments are authorized for survivors of service-members or veterans who died from a disease or injury that was incurred or aggravated while on active duty or from a disability compensable by VA. DIC payments may also be made if the veteran's death was not the result of a service-connected disability if the veteran was continuously rated totally disabled for a period of 10 or more years immediately preceding death or the veteran was so rated for a period of at least five years from the date of military discharge. Section 204 would change current law by allowing surviving spouses of former POWs to qualify for DIC benefits if the veteran had been rated as totally disabled for at least one year at the time of death.

Information from the VA indicates that approximately 1,900 former POWs receive disability compensation, are totally disabled, and have a spouse. CBO uses age-specific mortality rates to estimate that about 80 of these veterans will die each year. Based on data from VA, the estimate recognizes that some of the spouses will remarry, making them ineligible for DIC benefits, and that an increasing percentage of spouses will be eligible for benefits under current law. In addition to veterans who are already totally disabled, CBO expects that a few former POWs who now have a rating lower than 100 percent will become totally disabled in future years. Some of the spouses of those veterans would also gain eligibility to DIC as a result of the bill. Based on this analysis, CBO expects that in 2000 about 30 spouses would begin receiving payments, which in that year would average about \$11,700 annually. By 2004 the total number of spouses receiving benefits under this proposal would increase to about 250. CBO estimates that enacting the bill would raise direct spending by less than \$500,000 in 2000 and by about \$39 million over the 2000–2009 period.

*American Battle Monuments Commission.* Title II would grant borrowing authority and expand other fund-raising authorities of the American Battle Monuments Commission to expedite the establishment of the World War II memorial in the District of Columbia. CBO estimates that the bill would not have a significant budgetary impact in 2000 but that it would increase spending by about \$10 million over the 2000–2009 period.

The ABMC is responsible for maintaining and constructing U.S. monuments and memorials commemorating the achievements in battle of the armed forces. In 1993, the Congress authorized the ABMC to establish a memorial in the District of Columbia to honor members of the armed forces who served in World War II. The ABMC was granted the authority to solicit and accept private contributions for this memorial.

In addition to extending these authorities, title III would authorize the ABMC to borrow up to \$65 million from the Treasury to ensure that the groundbreaking, construction, and dedication of the memorial are completed in a timely manner. Since the initial authorization in 1993, a fund-raising campaign has raised over \$25 million in private contributions, and the location and design concept of the memorial have been approved. The Commemorative Works Act of 1986 requires the ABMC to show that it has sufficient funds before obtaining a construction permit from the Department of the Interior to complete construction of the memorial. Data

from the ABMC indicates that it will not have sufficient funds available in 2000 to meet this requirement. The borrowing authority in the bill would enable the ABMC to satisfy this requirement and to break ground in 2000. Assuming enactment of the bill, the total costs of the memorial are estimated to be about \$145 million through 2005.

The budgetary impact of the bill would depend on the amount of borrowing authority the ABMC would use and when it would be repaid. Based on information from the ABMC, CBO estimates that it would borrow and spend \$10 million in 2002. The ABMC expects that contributions and other income would allow it to repay the loan plus interest in 2003 and 2004. However, there is a chance that the ABMC will be unable to raise sufficient funds from private donors, especially if the borrowing authority that the bill would provide discourages such donations. Also, construction costs could exceed the ABMC's estimates. Thus, CBO estimates that the bill would be likely to raise direct spending by \$10 million, although the actual amount could be more or less than that.

*Other Provisions.* The bill contains other provisions that would have little or no impact on direct spending.

*Burial Benefits for Certain Filipino Veterans.* Under section 201, certain Filipino veterans of the Philippine Commonwealth Army during World War II (WWII) would receive new or increased burial and plot allowances if they are naturalized U.S. citizens living in the United States. Under current law, some of those Filipino veterans receive a total allowance of about \$225 or half the rate paid for U.S. veterans; the bill would increase the benefit to the full rate. It would also grant the full allowance of \$450 for certain Filipino veterans who do not now receive any benefit, if they meet the income and disability tests for veterans' pensions and are U.S. citizens living in the United States.

Information from the Department of Veterans Affairs indicates that about 80,000 surviving Filipino veterans of WWII served in units covered by the bill. According to data from the Immigration and Naturalization Service (INS), 20,000 Filipino veterans have become naturalized U.S. citizens since 1990, but INS does not know where those veterans reside. CBO has no information on the number or residence of the veterans who became citizens prior to 1990 and would be affected by this bill.

CBO estimates that the costs of section 201 would be below \$500,000 annually. This estimate is based on projected mortality rates and two additional judgments, which indicate that the number of beneficiaries of this bill is likely to be small. First, most Filipino veterans who have become U.S. citizens since 1990 probably live in the Philippines because the Immigration Act of 1990 (Public Law 101-649) does not require them to reside in the United States and because individuals at their ages are unlikely to emigrate. (These veterans would have been at least in their mid-60s when they became citizens.) Second, based on census information, it is likely that many of the targeted veterans who reside in the United States do not meet the income or disability tests for benefits under the bill. Therefore, CBO expects that only a small percentage of the 80,000 veterans covered by the bill would be able to qualify for new or increased benefits.

*Health Examinations for Dependents of Gulf War Veterans.* Section 135 would extend the Persian Gulf Spouse and Children Examination Program until December 31, 2002. This program, which expires on December 31, 1999, requires VA to provide diagnostic testing and health examinations, but not treatment, to dependents of Gulf War veterans who volunteer for testing in order to study the association between illnesses of veterans and illnesses of their family members. According to VA, approximately \$500,000 has been spent on over 1,100 exams since the inception of this program in 1996. VA currently has another 500 exams pending, and CBO expects that spending will be less than \$500,000 annually.

*Enhanced-Use Leases.* Section 111 would expand VA's program of enhanced-use leases. Such leases provide VA with cash or other items of value in exchange for the right to use assets of the department. Under current law, these arrangements usually result in barter rather than cash payments to VA because cash proceeds must be returned to the Treasury; thus, section 111 would not significantly affect the budget.

#### *Spending Subject to Appropriation*

Table 3 shows estimated effects of S. 1076 on discretionary programs, assuming that appropriations are provided in the amount of the estimated authorizations.

*Reimbursement for Emergency Care.* Section 131 would significantly expand VA's authority to reimburse veterans and institutions for emergency care. It would allow VA to pay for care stemming from life- or health-threatening emergencies involving a veteran who is enrolled with VA for care and has no other coverage for emergencies. CBO estimates that this provision would increase spending by about \$80 million in 2000 and about \$400 million a year by 2004, assuming appropriation of the necessary amounts. Those costs would stem from the costs of emergency room care and any subsequent hospital care.

Of the 3 million veterans enrolled with VA, CBO estimates that about 750,000 are uninsured and would be eligible for benefits under the bill. Emergency room care represents about 3 percent of the costs of private health plans. Emergency room costs would be two to three times greater for veterans covered by the bill, however, based on their generally poorer health. Thus, CBO estimates that the immediate costs of emergencies would amount to about \$155 million annually (in 2000 dollars).

CBO estimates that two-thirds of all visits to the emergency room would be urgent and that 16 percent of those visits would lead to admitting the veteran for an inpatient stay. For veterans under 65 years of age, the average hospital stay would cost about \$7,000. For veterans 65 years old or older, Medicare would cover the hospital costs, but VA would pay physicians' costs for those veterans without Part B coverage. CBO estimates that those costs would average about \$1,000 for the small fraction of veterans who lack Part B coverage.

The costs of the subsequent hospital stay would raise the annual bill to VA under this provision by about \$195 million (also in 2000 dollars).

TABLE 3. ESTIMATED CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1076, AS ORDERED REPORTED

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003	2004
<b>VETERANS' MEDICAL CARE</b>						
Spending Under Current Law:						
Estimated Authorization Level <sup>1,2</sup> .....	17,862	17,862	17,862	17,862	17,862	17,862
Estimated Outlays .....	17,609	17,958	17,975	17,782	17,751	17,751
Proposed Changes—Reimbursement for Emergency Care:						
Estimated Authorization Level .....	0	90	270	380	390	400
Estimated Outlays .....	0	80	250	360	380	400
Services for Homeless Veterans:						
Estimated Authorization Level .....	0	50	50	15	32	43
Estimated Outlays .....	0	45	50	19	31	42
Medical Expenses for Alaskan Veterans:						
Estimated Authorization Level .....	( <sup>3</sup> )	3	0	0	0	0
Estimated Outlays .....	( <sup>3</sup> )	3	( <sup>3</sup> )	0	0	0
Subtotal—Proposed Changes:						
Estimated Authorization Level .....	( <sup>3</sup> )	143	320	395	422	443
Estimated Outlays .....	( <sup>3</sup> )	128	300	379	411	442
Spending Under S. 1076:						
Estimated Authorization Level <sup>1</sup> .....	17,862	18,005	18,182	18,257	18,284	18,305
Estimated Outlays .....	17,609	18,086	18,275	18,161	18,162	18,193
<b>CONSTRUCTION OF MEDICAL FACILITIES</b>						
Spending Under Current Law:						
Budget Authority .....	142	0	0	0	0	0
Estimated Outlays .....	255	244	194	131	80	52
Proposed Changes:						
Authorization Level .....	0	213	0	0	0	0
Estimated Outlays .....	0	9	57	69	51	19
Spending Under S. 1076:						
Authorization Level <sup>1</sup> .....	142	213	0	0	0	0
Estimated Outlays .....	255	253	251	200	131	71
<b>REINTEGRATION OF HOMELESS VETERANS</b>						
Spending Under Current Law:						
Budget Authority .....	3	0	0	0	0	0
Estimated Outlays .....	2	3	1	0	0	0
Proposed Changes:						
Authorization Level .....	0	10	10	0	0	0
Estimated Outlays .....	0	1	7	9	3	0
Spending Under S. 1076:						
Authorization Level <sup>1</sup> .....	3	10	10	0	0	0
Estimated Outlays .....	2	4	8	9	3	0
<b>TOTAL PROPOSED CHANGES</b>						
Estimated Authorization Level <sup>4</sup> .....	( <sup>3</sup> )	366	330	395	422	443
Estimated Outlays <sup>4</sup> .....	( <sup>3</sup> )	138	364	457	465	461

<sup>1</sup> The figure shown for 1999 is the amount appropriated for that year.<sup>2</sup> The estimate assumes that funding under current law will remain at the level appropriated for 1999 without adjustment for inflation. If funding over the 2000–2004 period is adjusted for inflation, the base amounts would increase by about \$600 million annually, but the cost of the proposed changes would remain as shown.<sup>3</sup> Less than \$500,000.<sup>4</sup> This table excludes the budgetary impact of sections 101 and 132, which CBO cannot fully estimate.

*Services for Homeless Veterans.* Section 122 would authorize \$50 million for fiscal years 2000 and 2001 for grants and operating expenses under the Homeless Veterans Comprehensive Service Programs Act. That act allowed VA to share in the costs of establishing facilities for homeless veterans and to make contributions toward subsequent operating costs. The authorized amount would cover new grants and operating expenses stemming from past grants.

Based on current costs of the program, CBO estimates that \$34 million of the \$100 million authorized for 2000–2001 would be

spent for operating expenses. The remaining \$66 million would be used over two years for grants to subsidize the creation of about 6,600 new beds for homeless veterans. To subsidize the operational costs of the additional units, CBO estimates that VA would need about \$90 million through 2004 and \$327 million through 2009. The total cost of the provision, including the explicit authorizations for 2000 and 2001, would be about \$427 million over the 2000–2009 period.

*Medical Expenses of Alaskan Veterans.* Section 137 would require VA to keep its current rates for reimbursing the medical expenses of Alaskan veterans for one year. Under current law, in August 1999 VA plans to change its reimbursement rates from its present fee-for-service payment schedule to the Participating Physician Fee Schedule used by the Medicare program. The bill would also require VA to report on its proposal to change reimbursement rates. Based on information from VA on medical expenses and reimbursements for 1998, CBO estimates this provision would cost less than \$500,000 in 1999 and approximately \$3 million in 2000.

*Construction of Medical Facilities.* Section 141 would authorize appropriations of \$213.1 million to complete three projects that are specified in the bill and to continue certain projects authorized under current law.

*Reintegration of Homeless Veterans.* Section 302 would authorize appropriations of \$10 million annually for fiscal years 2000 and 2001 for a program to reintegrate homeless veterans. Funding for the program was \$3 million in fiscal year 1999. CBO estimates that outlays would follow historical spending patterns, assuming appropriation of the authorized amounts.

*Mental Health Services.* Section 132 would require VA to enhance its programs of specialized mental health services, especially for veterans suffering from post traumatic stress disorder (PTSD) and substance abuse disorders. VA currently provides inpatient and outpatient services for both disorders and spends almost \$110 million on veterans with PTSD and approximately \$412 million on substance abuse treatment programs. Under the bill, VA could establish additional outpatient and residential treatment facilities, offer new services, and enhance services in areas with unmet need. CBO cannot provide a specific estimate because the language allows VA considerable flexibility, but expects the annual cost of this provision would be in the tens of millions of dollars.

*Other Provisions.* Section 101 would expand the adult day health care program by removing the requirement that veterans must have had a prior hospital, nursing home, or domiciliary stay. VA currently provides adult day health care to over 1,100 veterans a day at an annual cost of roughly \$30 million.

On balance, CBO believes that this provision would raise VA's costs for this program, but it cannot provide a specific estimate. The higher costs would stem from a greater number of eligible veterans, but the budgetary impact of the provision could also include reductions in costs for hospital, nursing home, and domiciliary stays that would not be necessary for a veteran to be eligible for the program.

Section 133 would allow VA to treat military personnel on active duty for alcohol or drug abuse provided that the Department of De-



fense (DoD) reimburses VA for the cost. Under current law, VA can only provide treatment to individuals during the last month of their enlistment period and treats fewer than 1,000 individuals each year under this program. CBO expects that the net budgetary impact on both agencies would be insignificant.

Section 136 would require VA and DoD to report to Congress on the cooperation by both agencies in procuring pharmaceuticals and medical supplies. CBO expects this provision would cost less than \$500,000.

#### *Pay-As-You-Go Considerations*

Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in direct spending 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										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays .....	0	66	75	87	78	79	87	82	77	84	86
Changes in receipts .....	Not applicable										

#### *Intergovernmental and Private-Sector Impact*

S. 1076 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on the budgets of state, local, or tribal governments.

#### *Previous CBO Estimate*

CBO prepared estimates for two bills that contain provisions that are similar or identical to provisions in S. 1076. On June 28, 1999, CBO prepared a cost estimate for H.R. 2116, which contained provisions on emergency care and Homeless Veterans Comprehensive Service Programs comparable to sections 131 and 122, respectively, of S. 1076. On June 29, 1999, CBO prepared a cost estimate for H.R. 2280, which contained provisions that would affect spouses of former POWs, the American Battle Monuments Commission, and the reintegration of homeless veterans. Those provisions correspond to section 204, title II, and section 302, respectively, of S. 1076. In some cases, the cost estimates for corresponding provisions are the same because the provisions are identical or not sufficiently different to change estimated costs. In other cases, the estimates differ because the provisions are substantially different.

*Estimate Prepared By:* Federal Costs: Housing and Medical Programs: Sunita D'Monte; Medical Care for Homeless Veterans: Sarah T. Jennings; Income Security: Michael A. Miller; Construction of Medical Facilities: Matthew A. Martin; Homeless Veterans' Reintegration Program: Christi Hawley Sadoti; Impact on State, Local, and Tribal Governments: Susan Sieg; 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 that would be incurred in carrying out the Committee bill. The Committee finds that the Committee bill would not entail any regulation of individuals or businesses or result in any impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

## TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by members of the Committee on Veterans' Affairs at its June 23, 1999, meeting. On that date, the Committee, by unanimous voice vote, ordered S. 695, as amended, reported favorably to the Senate.

## AGENCY REPORT

On January 29, 1999, VA Under Secretary for Health, Kenneth W. Kizer, M.D., M.P.H., and Under Secretary of Defense (Personnel and Readiness) Rudy De Leon appeared before the Committee and submitted testimony on the findings and recommendations of the Commission on Servicemembers and Veterans Transition Commission. On May 20, 1999, the Honorable Togo D. West, Jr., Secretary of Veterans Affairs, and the Honorable Patrick T. Henry, Assistant Secretary of the Army for Manpower and Reserve Affairs, appeared before the Committee and submitted testimony on, among other things, certain provisions of S. 1076. Excerpts from these statements are reprinted below:

STATEMENT OF KENNETH W. KIZER, M.D., M.P.H., UNDER  
SECRETARY FOR HEALTH, DEPARTMENT OF VETERANS AF-  
FAIRS, BEFORE THE COMMITTEE ON VETERANS' AFFAIRS,  
U.S. SENATE, JANUARY 29, 1999

Mr. Chairman, the healthcare recommendations of the Congressional Commission on Servicemembers and Veterans Transition Assistance (Commission) arise from its stated themes of improving access to healthcare for transitioning servicemembers and their families and increasing the cost-effectiveness of the healthcare systems of the Department of Defense (DoD) and VA. An overarching implicit theme is the desire to "incentivize" the two healthcare systems to work more closely together. Recommendations to combine congressional appropriations and oversight for DoD and VA healthcare systems, as well as budget review at OMB are included, as well as a recommendation for a joint policy staff serving both DoD and VA, and a recommendation for a common information technology system. These recommendations require significant analysis and consultation with the DoD before formal Administration views can be offered.

The Commission's report represents a thoughtful analysis, and its recommendations should prove useful in shaping the future of both healthcare systems. It is important, however, to acknowledge that VHA and DoD Health Affairs have already moved toward significant collaboration in recent years. In June 1997, DoD Health Affairs joined VHA in a formal effort to address common issues jointly through the VA/DoD Executive Council (Council). The Council, which meets approximately monthly, is co-chaired by myself and DoD's Assistant Secretary of Defense (Health Affairs). The Council has already embraced the concept of advancing the partnership between DoD and VA that is an important underpinning to the Commission's healthcare recommendation. This progress is demonstrated by ongoing initiatives of the Council, including the Government Computer-Based Patient Record (G-CPR), Specialized Treatment System/Centers of Excellence, development of a common discharge physical, development of a Cost Reimbursement Methodology and joint approaches to purchasing of pharmaceuticals and medical/surgical supplies. These concrete initiatives are in many of the same areas that the Commission has highlighted for their recommendations. At the moment, the VA and DoD are jointly pursuing the following initiatives:

- Military and Veterans Health Coordinating Board;
- Specialized Treatment System/Centers of Excellence (In this area, DoD continues to ask that VA compete with the private healthcare industry.);
- Public communication;
- Cost reimbursement;
- Information management and technology (G-CPR, technical architecture, DoD Blood Program, and Y2K biomedical preparation);
- Joint purchase of pharmaceuticals and medical/surgical supplies;
- Clinical guidelines;
- Patient safety;
- Laboratory/pathology/ancillary care services;
- Standardization of disability discharge examinations;
- POW Coordinating Group;
- VA/DoD joint partnering study;
- Review of laws and policies to identify impediments to VA/DoD cooperation;
- Joint congressional interactions;
- Medical technology assessment;
- Joint survey of populations served; and
- TRICARE participation.

The Commission's major healthcare recommendations involve facilitating a closer partnership between DoD and VA healthcare organizations. To expand partnering, one recommendation suggests coordinated eligibility criteria for DoD and VA healthcare system beneficiaries so that care could be sought by military personnel or veterans

from either system's facilities with provision for reimbursement for services provided, as appropriate. Other recommendations suggest needs for integration of DoD and VA clinical, management financial and cost accounting systems to include joint procurements where feasible. A final recommendation proposes coordination of DoD and VA medical research.

\* \* \* \* \*

While the Commission presents business practices as a separate category of recommendations, they are really special cases of the theme of expanded DOD/VA partnership. This is also an area where many of the VA/DoD Executive Council initiatives have already begun work. Information technology, cost accounting, and joint procurement initiatives are in various stages of development and implementation.

To facilitate joint purchasing objectives, the VA/DoD Executive Council has created a Federal Pharmacy Executive Steering Group. Other negotiations brokered by the VA/DoD Executive Council include a draft agreement between DoD and VA on integration of some DoD and VA prime vendor contract pricing for medical/surgical items. Beyond purchasing per se, the Federal Pharmacy Executive Steering Group created by the VA/DoD Executive Council is also exploring joint formulary issues and has already formed a list of what could become a core formulary.

Mr. Chairman, we intend to continue our joint efforts with DoD to find ways to enhance the effectiveness of both health care programs, and we look forward to working with you and other Members of Congress as you consider the Commission's report.

Mr. Chairman, you also requested that I address certain funding and legislative issues. Before commenting further, I would note that the President's Budget is scheduled for release on February 1 and, as you know, by convention I am not allowed to discuss the funding requests or other initiatives that are included prior to that date. However, I can tell you that the current major sources of non-appropriated funding for veteran's health care are from patient copayments and recoveries from third party sources for VA care. Substantially all of these funds are deposited in "no year" accounts and are retained at the VISN level. This offers VISNs needed flexibility in planning the expenditure of funds over a multi-year timeframe. We have initiatives under way to enhance our cost recovery efforts that we believe will produce a moderate increase in these funds in FY's 1999 and 2000.

This concludes my statement. I would be pleased to respond to your questions.

STATEMENT OF RUDY DE LEON, UNDER SECRETARY OF DEFENSE, (PERSONNEL AND READINESS), BEFORE THE COMMITTEE ON VETERANS' AFFAIRS, UNITED STATES SENATE, "REPORT OF CONGRESSIONAL COMMISSION ON SERVICEMEMBERS AND VETERANS TRANSITION ASSISTANCE", JANUARY 29, 1999

Mr. Chairman and members of the Committee, it is a privilege to appear before you to discuss the report of the Commission on Servicemembers and Veterans Transition Assistance. I am accompanied today by Dr. Sue Bailey, the Assistant Secretary of Defense for Health Affairs, and by Mr. Frank Rush, Acting Assistant Secretary of Defense for Force Management Policy.

We would like to take this opportunity to thank Senator Dole for urging the creation of this Commission, Mr. Principi for chairing it, and the commissioners and their staff for engaging in two years of intensive work that produced over 100 recommendations addressing 31 specific issues.

The Commission, at the outset of its report, recognized two challenges: the challenge of addressing veterans' needs in transitioning to civilian life as well as a second challenge the Military Services face in recruiting and retaining the highest quality individuals to serve. To address this second challenge, the Administration is proposing important pay and retirement improvements to ensure that the men and women of our armed forces are compensated fairly for their outstanding performance and dedicated service to our nation. We believe these pay and retirement improvements will enhance recruiting and retention, and we welcome today's dialogue on ways we can improve our efforts with respect to veterans making the transition to civilian life.

During the coming months, we will review the report in detail so that, in the spring, the Secretary of Defense, in consultation with the Secretaries of Veterans Affairs and Labor, can submit to the Congress his comments on the Commission's recommendations. These recommendations fall principally into three areas: education, employment and training, and health care—the areas the Commission found of most concern to the servicemembers and veterans interviewed during the Commission's work.

\* \* \* \* \*

The Commission's recommendations in the area of health care will require close review by both the Defense Department and the Department of Veterans Affairs, which both operate high-quality health care systems. The Commission suggested fundamental changes in the relationship between the two health care systems and a consolidation of certain health care functions. The proposals include coordinated budgeting and funding within the Executive Branch and Congress; a joint Defense/VA planning and policy staff; joint procurement of information tech-

nology and cost accounting systems; and the establishment of a single acquisition center for the procurement of all pharmaceuticals, medical and surgical supplies, and equipment.

\* \* \* \* \*

While we need to study the Commission's recommendations in more detail, we can say unequivocally now that we agree with the assessment of the Commission that our servicemembers and veterans "represent a unique and invaluable human resource for America's society and economy" and that our nation has an obligation to provide them "with the means to take advantage of the opportunities protected and preserved through their service." These words echo those we have used in testimony to this and other Congressional committees throughout the years. We will be pleased to study the Commission's recommendations, especially in light of the obligation that we owe the veterans of the armed forces who have served their country honorably and well.

Again, in closing, we thank the Commission for its hard work and insight and this Committee for its continued interest in and commitment to the men and women who serve and have served in the armed forces.

---

STATEMENT OF TOGO D. WEST, JR., SECRETARY OF VETERANS AFFAIRS, BEFORE THE COMMITTEE ON VETERANS' AFFAIRS, UNITED STATES SENATE, MAY 20, 1999

Good afternoon, Mr. Chairman and Members of the Committee.

It is a pleasure for me to appear before you to provide our Department's views on the various proposals that comprise today's agenda. These include S. 555 and S. 695, which deal with education and burial benefits, respectively, and S. 940, an Administration bill you introduced on our behalf which we view as critical to our having an organizational structure needed to accomplish VA's mission as we enter the next millennium. You also asked that we testify on the provisions of a draft omnibus Committee bill you plan to introduce.

Mr. Chairman, as we have already indicated, we will not be able today to address a number of the provisions of the draft Committee bill since we only recently received the legislative language for those provisions. However, I want to assure you that VA, even now, is reviewing and evaluating the entire draft bill and we will provide you our official views on it at the earliest possible date.

Having said that, I hasten to note also that, of the wide range of proposals contained in the draft bill of interest to veterans and VA, we are prepared to discuss certain areas in which we, at least conceptually, have an official position.

\* \* \* \* \*

*Omnibus Draft Bill*

Turning now to the draft Committee bill, I want to provide the following comments on selected provisions that I will identify by their associated section numbers and headings as they appear in the draft summary we were furnished.

\* \* \* \* \*

*Section 302. In-home respite care services*

This proposal would permit VA to furnish respite care to eligible veterans in their homes. VA is supportive of this concept, which is consistent with recommendations made by the Federal Advisory Committee on the Future of Long-Term Care. Issues of cost, however, remain to be resolved.

*Section 311. Disposal of Department of Veterans Affairs real property*

Section 311 of the draft bill would authorize a 5-year pilot program under which the Secretary of Veterans Affairs could dispose of VA real property by transfer, sale or exchange and retain the proceeds for veterans' programs. This authority would be independent of the disposal authorities in sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. §§ 483, 484). Section 311 also would authorize an initial appropriation of \$10 million to capitalize the Capital Asset Fund established by the legislation.

The President's budget for Fiscal Year 2000 called for a Capital Asset Fund into which would be deposited the receipts from the disposal of property VA no longer needs to carry out its mission. A number of questions have arisen regarding the specific form such legislation should take, which are being actively considered within the Administration. When those discussions have been completed, we will be in a position to comment on the Committee proposal.

*Section 331. Treatment and services for drug or alcohol dependency*

Congress has over the years consistently encouraged VA and the Department of Defense (DoD) to enter into agreements to share health care resources, subject to reimbursement. One resource VA could share with DoD is its specialized drug and alcohol abuse and dependence treatment programs. VA's excellent programs have a proven track record, and they exist in many locations that could benefit the Department of Defense. However, restrictions in current law effectively prohibit such sharing.

Existing law provides that DoD may not transfer active duty military personnel to VA facilities in order to receive treatment for drug and alcohol abuse except during the last 30 days of their enlistment period or tour of duty. Moreover, the transfers must be made pursuant to the provisions of the Economy Act. Section 331 would lift the re-

striction that prohibits such transfers unless they are made during the last 30 days of an individual's enlistment period or tour of duty. Your bill continues to require that such transfers be made pursuant to an Economy Act agreement.

VA has submitted to Congress a similar bill that would eliminate the 30 day restriction and would also allow VA to share its program with DoD at any time under a VA/DoD sharing agreement. DoD would reimburse VA for the resources under that authority. We favor enactment of our proposed legislation as it would provide more flexibility and reduce costs to the Government by minimizing duplication and underuse of VA and DoD alcohol and drug dependence and abuse treatment resources.

*Section 332. Allocation to Department of Veterans Affairs health care facilities of amounts in Medical Care Collections Fund*

VA opposes section 332, which would direct that Medical Care Collection Funds be returned to the facilities which provided the care rather than to the VISNS.

It is important that networks retain flexibility to appropriately direct expenditures of all available resources, including these funds, wherever they are most needed.

*Section 334. Report on coordination of procurement of pharmaceuticals and medical supplies by the Department of Veterans Affairs and the Department of Defense*

Also before you today is section 334 of the draft bill that would require DOD and VA to submit a report to Congress on current cooperation in pharmaceuticals and medical supplies procurement, and on programs to increase cooperation. Significant progress is being made in these regards, and we would be pleased to report on the status of our efforts.

*Section 341. Authorization of major medical facility projects*

Section 341 would, for the most part, authorize VA construction projects as requested by the Department in conformance with the Veteran's Health Care Eligibility Act of 1996, Public Law 104-262. That act requires that construction projects be ranked according to priority of merit.

The proposed Lebanon VA Medical Center project has not been through that process. With respect to the remodeling and environmental improvements at the Fargo VA Medical Center, this project was ranked 6th on a list of seven construction projects.

As set forth in the FY 2000 President's budget, we request that Congress authorize \$38,900,000 for four major facility projects and \$2,178,500 for two major facility lease programs for Fiscal Year 2000.



The Kansas City Veterans Affairs Medical Center ("VAMC") provides tertiary care for the veterans enrolled in primary care in the western portion of the Heartland Network, which includes the Kansas City, Wichita, and eastern Kansas Medical Centers. The Department of Veterans Affairs ("VA") requests authorization of \$13,000,000 to construct a new surgical suite and post-anesthesia care unit at the VAMC, located in Kansas City, Missouri. This project will correct deficiencies identified in a 1995 Joint Commission on Accreditation of Healthcare Organization survey related to congested space, patient privacy and infection control.

The Murfreesboro VAMC is the primary site for specialized and long term mental health services supporting the Mid-South VA Health Care Network medical centers. The Murfreesboro VAMC has recently implemented a mental health system that will include a schizophrenia treatment program, a sustained treatment and rehabilitation program, a psychiatric evaluation and treatment program and an intermediate psychiatric program. VA requests authorization of \$14,000,000 to upgrade psychiatric nursing units to provide an improved patient privacy environment. Key aspects of the construction project include the reduction in the number of beds on each ward, improved managed care due to bed reduction, restructuring of the physical space and patient privacy.

VA is proposing to demolish thirty-nine buildings in Leavenworth, Kansas and to transfer the land made available through demolition to the National Cemetery Administration at no cost. This land will be used to improve the delivery service capability of the national cemetery. This will provide for approximately 36 years of burials for deceased veterans and their dependents. VA requests authorization of \$11,900,000 to develop the national cemetery gravesites.

The no-cost acquisition of Naval training center property located in Orlando, Florida, provides the VA an opportunity to provide accessible care to critically underserved veterans in the East Central Florida area. VA requests authorization of \$2,400,000 in previously appropriated funds from fiscal year 1995 for a 60-bed domiciliary at the Orlando Naval Training Center, located in Orlando, Florida. The completed domiciliary will provide counseling and support space, outpatient mental health space, and handicapped accessible bathing facilities for outpatient psychiatric and substance abuse treatment patients requiring residential care or transitional housing to veterans in the East Central Florida area.

Finally, we are requesting funding to lease two medical facilities. Maintaining the lease for the outpatient clinic located in Lubbock, Texas will contribute immensely to VA's goal of providing high quality, timely and compassionate primary care and social services to veterans. The clinic provides a full range of primary and limited specialty care.

The specialty care includes surgery, neurology, mental health, ophthalmology, dental, orthopedics, substance abuse, and women's health. VA requests \$1,112,000 to lease the outpatient clinic in Lubbock, Texas. The lease provides approximately 36,000 occupiable square feet for the clinic. Approval of this lease will provide authority for up to 20 years of leasing. Current projections indicate that the useful life of this clinic will extend well beyond the year 2020.

The lease of the research building located in San Diego, California, provides the acquisition of approximately 20,920 of occupiable square feet for biomedical research. The space includes laboratories, casework, hoods, incubators, animal facility resources with special space designed for transgenic and immune-compromised mice, cold rooms, a core cell facility, offices and conference rooms. The research programs include Parkinson's Disease, Immunology, Hypertension, Memory, Diabetes and AIDS. VA requests \$1,066,500 to lease the research building in San Diego, California. Approval of this lease will provide authority for up to 20 years of leasing.

*Section 401. Payment rate of certain burial benefits for certain Filipino veterans*

Section 401 would authorize VA to provide burial and plot allowance benefits to certain individuals who served in the Commonwealth Army of the Philippines and who, at the time of death, were receiving disability compensation from VA or could have been eligible for pension had their Commonwealth Army service been considered active service in the United States Armed Forces. Eligibility for these benefits would be limited to those individuals who, at the time of death, were United States citizens residing in the United States. It would equalize the benefit rates paid to former Philippine Army personnel and U.S. veterans residing in the United States.

The President's Fiscal Year 2000 Budget contains a proposal to provide for payment of, or calculation of entitlement to, compensation and DIC benefits without regard to current \$0.50-on-the-dollar limitations in the case of certain Filipinos who reside in the United States. Section 107(a) and (b) of title 38, United States Code, currently provides that benefit payments based on service of veterans of the Philippine Commonwealth Army, including members of recognized guerrilla units, and the so-called New Philippine Scouts shall be made at a rate of \$0.50 for each dollar authorized and that, where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate of \$0.50 for each dollar. Persons who served in the Commonwealth Army, recognized guerrilla forces, and the New Philippine Scouts, and their survivors, are currently entitled to benefits under chapters 11 (disability compensation) and 13 (except for section 1312(a)) (DIC) of title

38. Service in the Commonwealth Army and recognized guerilla units also provides a basis for entitlement to burial benefits under chapter 23 of title 38.

The Administration has proposed elimination of the \$.50-on-the-dollar limitations for compensation and DIC for beneficiaries residing in the United States in recognition of the fact that Filipino beneficiaries residing in the United States face expenses comparable to those of United States veterans. While the Administration's proposal only applies to compensation and DIC benefits, the draft bill would only apply to burial benefits. Preliminary scoring of this provision indicates this would cost approximately \$2 million dollars for Fiscal Year 1999 and \$8 million over the period FY 2000–2004.

*Section 402. Extension of authority to maintain a regional office in the Republic of the Philippines*

Section 402 of the draft bill would extend our authority under section 315(b) of title 38, United States Code, to operate a regional office in the Republic of the Philippines until December 31, 2004. Under current law, our authority to operate this office will expire on December 31, 1999. This authority has been extended periodically through the years. The most recent extension, pursuant to Public Law 103–446, followed issuance in July 1993 of a report by the General Accounting Office (GAO/HRD–93–96) which concluded that a premature closing of the Manila regional office could be costly and recommended that it be maintained for an indefinite period until VA can demonstrate that “(1) it can maintain proper internal controls of benefit payments if the office is closed and its functions moved to the United States, (2) closure would be cost effective notwithstanding the possible higher administrative costs in the United States, and (3) VA can maintain adequate services to beneficiaries from the United States.”

More recently, a joint review team comprised of representatives from the Veterans Benefits Administration and the Veterans Health Administration which assessed VA operations in the Philippines in September 1997 recommended that this authority be extended for several more years.

We believe that operating a regional office in the Philippines is the most cost-effective means of administering VA programs for beneficiaries residing there. VA has performed computations of the cost associated with transferring the Manila regional-office operations to alternative sites. We have determined that continuing to operate the Manila office appears to be significantly less costly than moving its operations to San Diego, California, the next least expensive site. We estimate that for fiscal year 2000 the net additional payroll costs of performing the Manila regional office functions would be over \$650,000.

It is also particularly important for VA to have an on-site presence in Manila to prevent fraud. United States

Embassy officials in Manila believe that VA's commitment of resources to fraud prevention results in a savings to American taxpayers which exceed the cost of VA's operations in the Philippines.

If VA were to close the Manila regional office, veterans assistance activities in the Philippines would still be needed. A Federal Benefits Unit attached to the Department of State would have to be established. Under an arrangement with the Department of State for operation of such a unit, VA would have only limited control of the program from both a cost and service-quality standpoint. Because a Federal Benefits Unit would only assume responsibility for information dissemination and assistance and not benefit processing, there could be no assurance that the extensive fraud-prevention activities currently being performed by the regional office would continue.

As our computations indicate, continued operation of a regional office in Manila appears to be cost effective even if the important benefit of fraud prevention is not taken into account. However, the fraud-prevention benefit provides another significant reason for maintaining the office. Accordingly, we fully support this provision.

*Section 403. Extension of Advisory Committee on Minority Veterans*

This section would provide a 4-year extension of the Advisory Committee on Minority Veterans until December 31, 2004. The information guidance and recommendations of this Committee continues to be indispensable to VA's mission. VA, therefore, strongly supports extending this Committee.

*Section 404. Repeal of limitation on payments of benefits to incompetent institutionalized veterans*

Section 404 of the draft bill would repeal subsections (b) and (c) of section 5503 of title 38, United States Code. Section 5503(b) has, for many years, required VA to suspend the payment of certain benefits, including disability compensation and pension, to certain incompetent veterans without dependents while those veterans are being provided hospital treatment or institutional or domiciliary care by the government when the veteran's estate equals or exceeds \$1,500. The suspension continues until the estate is reduced to \$500. The "\$1,500 rule," as it has come to be known, was enacted largely to prevent the accumulation of large estates comprised of VA benefits that would be inherited by persons who had no original entitlement to benefits during the veteran's lifetime.

We take no position today on the merits of this proposal because we have not had an adequate opportunity to consider its costs or other implications.

*TITLE V—MEMORIAL AFFAIRS*

*Subtitle A—Arlington National Cemetery (Secs. 501–503)*

Subtitle A of title V of the draft bill, the “Arlington National Cemetery Burial and Inurnment Eligibility Act,” would set forth in statute the eligibility requirements for burial or inurnment in Arlington National Cemetery. VA defers to the views of the Department of the Army with respect to the merits of these provisions.

*Subtitle B—World War II Memorial (Secs. 511–514)*

Subtitle B of title V of the draft bill, the “World War II Memorial Completion Act,” would authorize the American Battle Monuments Commission (ABMC) to use “special borrowing authority” to assure timely completion of the memorial and to use, register, license, and defend trademarks, copyrights, etc., in connection with fund raising for that purpose.

The FY 2000 Budget proposed continuation of private contributions as the best approach to completing the World War II Memorial. The Administration opposes “special borrowing authority” as transition funding because it would undercut solicitation of private contributions which would undermine rather than expedite the completion of the World War II Memorial. The Administration, however, strongly supports the extension of the authority to establish the Memorial.

Mr. Chairman, we would be pleased to work with the Committee as it further develops its omnibus benefits bill.

\* \* \* \* \*

STATEMENT BY MR. PATRICK T. HENRY, ASSISTANT SECRETARY OF THE ARMY, (MANPOWER AND RESERVE AFFAIRS) AND MR. JOHN C. METZLER, JR., SUPERINTENDENT, ARLINGTON NATIONAL CEMETERY, BEFORE THE SENATE COMMITTEE ON VETERANS' AFFAIRS, MAY 20, 1999

Thank you, Mr. Chairman, I am glad to be here to discuss the pending legislation regarding eligibility criteria for burial at Arlington National Cemetery (ANC). The Secretary of the Army has designated me in my capacity as the Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA (M&RA)) as the individual responsible for oversight of burial policy at Arlington. Seated next to me is Mr. John C. Metzler, Jr., the Superintendent of Arlington National Cemetery, who is also available to answer any questions you may have.

Arlington National Cemetery is America's most prominent national cemetery and serves as a shrine honoring the men and women who have served in the Armed Forces and those Americans who have made extraordinary contributions to the nation. It is a visible reflection of Amer-

ica's appreciation for those individuals whose acts and accomplishments reflect the highest service to the country.

Since its founding in 1864, the cemetery has functioned primarily as a military burial ground. Over the years, the symbolic significance of Arlington National Cemetery has evolved. The cemetery has become recognized as the Nation's foremost national memorial to its military members and is the final resting place of Presidents and other leading public figures. It has also become the site of major memorial events and ceremonies, as well as a significant attraction for visitors to the Washington area. We are here today to outline for the Committee our effort to enhance the regulations that govern eligibility criteria for burial in Arlington, and to provide our views on pending legislation pertaining to the same. As you know, rules governing burial in Arlington are included in title 32 of the Code of Federal Regulations. As a result of last year's hearing in the House of Representatives on this matter, we are in the process of revising the regulations that govern burial policy. The revised regulations, like pending legislation, will continue the practice of allowing active members of the Armed Forces, retired members of the Armed Forces, highly-decorated veterans, former prisoners of war, and certain veterans discharged due to disability, to be buried in Arlington.

In addition, the revised regulations are similar to pending legislation in that the regulations identify those categories of persons who may be considered for burial in the cemetery based on their relationship to an eligible veteran. In the past, exceptions were required to allow close relatives and former spouses burial in the same gravesite as an eligible veteran. In the past 10 years, these types of exceptions have constituted 76 percent of those granted. We agree that these individuals should be provided burial consideration, and not be viewed as an exception. We do believe, however, that the Superintendent should have broader discretionary authority for other close relatives, same grave situations as outlined in current regulations. Additionally, any legislation should continue to honor, at the discretion of the Superintendent, reservations made in writing, before the one-gravesite-per-family policy was established, for gravesites adjoining those of next of kin previously interred.

Our revised regulations are similar to pending legislation in that they follow the current policy of allowing burial in Arlington for former members of the Armed Forces who choose to continue their service to the country and attain high Legislative, Judicial and Executive offices. This includes those in an elective office of the United States Government such as the Vice President, United States Senators, and Members of the United States House of Representatives; appointed officials, which include the Chief Justice and Associate Justices of the Supreme Court of the United States; and the heads of Executive Departments.

Proposed legislation differs from current policy in that it excludes currently eligible ambassadors at our largest and most important overseas missions, some government officials at level I, and all level II executives.

If there must be legislation addressing the eligibility for burial in Arlington, we believe that there should always be the opportunity for individuals who have made extraordinary public contributions to be considered for burial at Arlington, and for an exception to be granted, if appropriate. We strongly support the inclusion of language allowing the discretion to grant exceptions to allow for burial of individuals whose acts, services, or contributions, on behalf of the Armed Forces or the Nation, are extraordinary and substantially similar to the acts, services, or contributions made by the individuals who are entitled to burial. We believe that this authority appropriately rests with the President, through his designee, the Secretary of the Army. Arlington should be preserved as a national shrine honoring the men and women who have served in the Armed Forces and a limited number of exceptional Americans who have made or will make extraordinary public contributions, the vast majority of which are veterans of our Armed Forces.

To keep the public and the Congress informed of exceptions that are granted, we currently require a public disclosure form be signed by each requestor and, with each approval, we notify the appropriate Congressional oversight committees. We believe that current procedures for handling exception requests are highly effective, due to the fact that decisions concerning burials are *time-sensitive*, extremely emotional, and require prompt action. We believe that any expansion of current requirements for staffing and consultation would inhibit a timely response to a grieving family.

Additionally, we believe that current guidelines for inurnment in the columbarium as outlined in 32 CFR 553.15a and current regulations appropriately govern eligibility. There is more than adequate space in the existing and planned columbaria to accommodate those eligible under current inurnment policy for the foreseeable future.

While we agree with the intent in the pending legislation regarding the terms "prisoner of war," "active duty," "armed forces," and "foreign and national security services," we recommend expansion of the definition and explanation of these terms in the legislation to better manage burial and/or inurnment entitlements. Additionally, as written, the definitions in pending legislation pertain only to section 2412. Also, we support an effective date of January 1, 2000, for the register of buried individuals as described in pending legislation.

In closing, I would like to emphasize that the Secretary of the Army takes very seriously his responsibility to administer and to uphold the sanctity of Arlington National Cemetery as we pay final tribute to men and women who

have served our country with distinction. In this regard, the Army has recently completed a master plan, which is designed to ensure that Arlington will remain active as the Nation's foremost military cemetery. This plan requires a review of the eligibility standards every five years to determine what standards are appropriate given land availability. The plan also identifies fourteen parcels of land that are located in close proximity to the cemetery and that could be used for future burials. We intend to examine those parcels that, if made available, would extend the life of the cemetery. These parcels include contiguous land sites that are to be made available when they are no longer needed for military purposes and include the Navy Annex and a portion of Fort Myer. We solicit your support for this initiative. Funds are included in the President's budget for fiscal years 1999–2003 to prepare concept plans to develop those parcels of land owned by the Federal Government when they become excess to government needs in the near future. Acquisition of this property will allow for continued operation of the cemetery through the twenty-first century.

I appreciate very much the opportunity to be here, Mr. Chairman. Mr. Metzler and I would be pleased to answer any questions you may have.

#### ADDITIONAL VIEWS

The Committee Bill is an omnibus measure which seeks to make valuable changes to a number of important veterans' programs. In my view, however, it falls short in two critical areas.

First, and most importantly, it does not advance the Department of Veterans Affairs in the area of long-term care. Second, I have concerns about the way in which the Committee has determined which VA major construction projects to authorize.

Let me present my concerns.

#### *Long-Term Care*

There is no doubt that demand for long-term care—for veterans and nonveterans alike—is increasing throughout the country. In the Department of Veterans Affairs, however, we face an even more pressing demand.

The numbers are staggering. About 34 percent of the total veteran population is 65 years or older, compared with about 13 percent of the total United States population. In the year 2000, the number of veterans aged 65 or older will peak at 9.3 million.

Because VA has already faced considerable demand for long-term care, it has become a leader in this field. Older veterans are leading richer lives because of VA's innovations in the area of long-term care. However, according to the *Report of the Federal Advisory Committee on the Future of VA Long-Term Care*, despite VA's high quality and



long tradition, “VA long-term care is marginalized and unevenly funded.”

On March 15, 1999, as the Chairman and I wrote in a letter to the Budget Committee containing the Committee’s views on VA’s budget for FY 2000, “*The* health care issue that VA must face over the intermediate term—indeed, the health care issue that the Nation must face over the next decade—is the need for long-term care among the aging World War II generation. WWII veterans saved Western civilization. We cannot turn our backs on them now.”

Congress has delayed far too long in encouraging the VA in the area of long-term care. For several years, this Committee has contemplated what to do about the long-term care needs of veterans. Unfortunately, the measure reported out of this Committee at its June 23, 1999, meeting fails to adequately address the problem.

The Committee legislation contains two meaningful provisions that will benefit a relatively small number of veterans. I had hoped that the Committee would go just a bit further to respond to the long-term care needs of our veterans. That is why I offered a long-term care amendment at the June 23, 1999 Committee meeting which included various provisions based on the “Veterans’ Long-Term Care Enhancement Act of 1999.”

Providing long-term care to all veterans who need it and want it is my ultimate wish. While the amendment I offered is only one step toward determining what VA should be doing to meet veterans’ needs for long-term care, it is an important step in that regard.

There are three key elements of the proposal. First, it clarifies that long-term care is more than just nursing home care. Specifically, the provision would add “non-institutional extended care services”—such as adult day health care and hospice care—to the definition of “medical services,” thereby removing any doubt about VA’s authority to offer such services.

Second, the amendment would add authority for VA to furnish assisted living services, including to the spouses of veterans, within the confines of two demonstration sites. VA already furnishes a form of assisted living services through its domiciliary care program and the community residential care programs, but the amendment would allow VA to offer this type of care to older veterans. Currently, VA is directly prohibited from financing assisted living care for veterans.

During the Committee markup, some members argued against the assisted living provisions, predicated on the fact that we don’t know enough about assisted living. I agree. We need to learn more about how VA would utilize authority for such care, hence the proposed amendment would have tested the idea in two pilot sites. Still, this small test was not approved by the full Committee.

The *Report of the Federal Advisory Committee on the Future of VA Long-Term Care* specifically mentions that while many state programs are moving in the direction of assisted living—to cut costs and to provide the most appropriate level of care—VA cannot do so.

The Advisory Committee went on to recommend authorizing VA to allow for the payment of assisted living care. Likewise, the VA has indicated that they will initiate a request for new authority. Why wait? This is a small effort, but one which will be vitally important as we seek ways to care for elderly veterans.

Under the third facet of the proposal, VA would carry out a series of pilot programs which would help all of us find the best way for VA to meet veterans' long-term care needs—either directly, through cooperative arrangements with community providers, or indirectly, by purchasing services from non-VA providers. This pilot would be intended to supplement VA's existing long-term care efforts.

I firmly believe that for VA's expertise to be of greatest use to others, it needs both to better capture what it has done and to develop new learning that would apply to other health care entities. A key purpose of the pilot programs would be to test various approaches to meeting the long-term care needs of eligible veterans, both to develop approaches that could be expanded across VA, as well as to demonstrate to others outside of VA the effectiveness and impact of various approaches to long-term care.

Each element of the pilot program would establish and carry out a comprehensive long-term care program, with a full array of services, ranging from inpatient long-term care to comprehensive noninstitutional services.

The VA long-term care pilot program would include specific data collection on matters such as cost effectiveness, quality of health care services provided, enrollee and health care provider satisfaction, and the ability of participants to carry out basic activities of daily living.

VA would gain more precise information on exactly which services to offer, how best to coordinate those services, and on the relative cost and effectiveness of various services. From there, we would have the rationale to move forward with more sweeping legislation.

When S. 1076 is considered in the Senate, I will seek consideration of my amendment *de novo*.

#### *Major Construction*

Construction is another area where S. 1076 falls short.

I am specifically concerned that the Committee is authorizing medical facility projects that are neither in the VA's budget request nor even on its list of priority major medical construction projects. To appear on either of these formal lists, a project must have been vetted through the Department's prioritization process.

VA employs an in-depth planning methodology to prioritize major medical construction projects which are

forwarded from the field. VA has taken a good deal of time to ensure that this process is objective and assures that selected projects will be tied closely to the Department's goals and objectives. This methodology has been validated by outside consultants and incorporates best practices from the public and private sectors. It also conforms to the guidance of the Office of Management and Budget. Circumventing this process does not make sense in this era of highly constrained budgets.

The Committee bill authorizes construction projects in Kansas City, MO; Fargo, ND; and Lebanon, PA. Kansas City is included in the VA's budget request; both Kansas City and Fargo are contained on VA's fiscal year 2000 Priority Major Medical Construction Project Report.

This year, we face an incredibly restrictive budget situation. In that climate, I am troubled that the Committee is authorizing projects that have not been vetted through the VA capital investment process. VA spent a good deal of time and effort in refining how they go about prioritizing projects. We should not second-guess the VA process. There are construction projects that were authorized by the Committee last year to which funds have not yet been appropriated.

Whatever the merits may or may not be of nonpriority projects, the process that is in place to make these decisions should not be overturned by the Committee without extraordinary showing of out-of-order need, which in my judgment is lacking in this situation.

The Committee rejected an amendment that would have struck section 141 of S. 1076, as amended, and would instead authorize VA Major Medical Facility Projects Construction in the order and for the amounts specified in the VA's fiscal year 2000 Priority Major Medical Construction Project Report. These projects that have not been previously authorized are: Kansas City, MO; Murfreesboro, TN; Atlanta, GA; Fargo, ND; and San Diego, CA. Of these, the Administration request limited the priority list to Kansas City and Murfreesboro.

JOHN D. ROCKEFELLER IV.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE BILL, 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 5, UNITED STATES CODE**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

**Subpart B—Employment And Retention**

\* \* \* \* \*

**CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT**

**Subchapter I—Examination, Certification, and Appointment**

\* \* \* \* \*

**§ 3304. Competitive service; examinations**

(a) \* \* \*

\* \* \* \* \*

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

(2) *If selected, a preference eligible or veteran described in paragraph (1) shall acquire competitive status and shall receive a career or career-conditional appointment, as appropriate.*

[(2)] (3) This subsection shall not be construed to confer an entitlement to veterans' preference that is not otherwise required by law.

[(3)] (4) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

[(4) The Office of Personnel Management shall establish an appointing authority to appoint such preference eligibles and veterans.]

\* \* \* \* \*

**TITLE 36, UNITED STATES CODE**

**Subtitle I—Patriotic and National Observances and Ceremonies**

\* \* \* \* \*

**PART B—UNITED STATES GOVERNMENT ORGANIZATIONS INVOLVED WITH OBSERVANCES AND CEREMONIES**

**CHAPTER 21—AMERICAN BATTLE MONUMENTS COMMISSION**

Sec.

2101 \* \* \*

\* \* \* \* \*

2113. *World War II memorial in the District of Columbia.*

\* \* \* \* \*

**§ 2103. Administrative**

(a) \* \* \*

\* \* \* \* \*

[(e) **AUTHORITY TO RECEIVE STATE, LOCAL, OR PRIVATE AMOUNTS.**—The Commission may receive State, local, or private amounts to carry out this chapter. The Commission shall deposit the amounts with the Treasurer of the United States. The Treasurer shall keep the amounts in separate accounts and shall disburse the amounts on vouchers approved by the Chairman.]

(e) *SOLICITATION AND RECEIPT OF CONTRIBUTIONS.*—(1) *The Commission may solicit and receive funds and in-kind donations and gifts from any State, municipal, or private source to carry out the purposes of this chapter. The Commission shall deposit such funds in a separate account in the Treasury. Funds from this account shall be disbursed upon vouchers approved by the Chairman of the Commission as well as by a Federal official authorized to sign payment vouchers.*

(2) *The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds and in-kind donations and gifts under paragraph (1) would—*

(A) *reflect unfavorably on the ability of the Commission, or any employee of the Commission, to carry out the responsibilities or official duties of the Commission in a fair and objective manner; or*

(B) *compromise the integrity or the appearance of the integrity of the programs of the Commission or any official involved in those programs.*

\* \* \* \* \*

(k) \* \* \*

(l) *INTELLECTUAL PROPERTY AND RELATED ITEMS.*—(1) *The Commission may—*

(A) *adopt, use, register, and license trademarks, service marks, and other marks;*

(B) *obtain, use, register, and license the use of copyrights consistent with section 105 of title 17;*

(C) *obtain, use, and license patents; and*

(D) *accept gifts of marks, copyrights, patents and licenses for use by the Commission.*

(2) *The Commission may grant exclusive and nonexclusive licenses in connection with any mark, copyright, patent, or license for the use of such mark, copyright or patent, except to the extent the grant of such license by the Commission would be contrary to any contract or license by which the use of such mark, copyright or patent was obtained.*

(3) *The Commission may enforce any mark, copyright, or patent by an action in the district courts under any law providing for the protection of such marks, copyrights, or patents.*

(4) *The Attorney General shall furnish the Commission with such legal representation as the Commission may require under paragraph (3). The Secretary of Defense shall provide representation for the Commission in administrative proceedings before the Patent and Trademark Office and Copyright Office.*

(5) *Section 203 of title 17 shall not apply to any copyright transferred in any manner to the Commission.*

\* \* \* \* \*

### **§2113. World War II memorial in the District of Columbia**

(a) *DEFINITIONS.—In this section:*

(1) *The term “World War II memorial” means the memorial authorized by Public Law 103–32 (107 Stat. 90) to be established by the American Battle Monuments Commission on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war.*

(2) *The term “Commission” means the American Battle Monuments Commission.*

(3) *The term “memorial fund” means the fund created by subsection (c).*

(b) *SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS.—Consistent with the authority of the Commission under section 2103(e) of this title, the Commission shall solicit and accept contributions for the World War II memorial.*

(c) *CREATION OF MEMORIAL FUND.—(1) There is hereby created in the Treasury a fund for the World War II memorial, which shall consist of the following:*

(A) *Amounts deposited, and interest and proceeds credited, under paragraph (2).*

(B) *Obligations obtained under paragraph (3).*

(C) *The amount of surcharges paid to the Commission for the World War II memorial under the World War II 50th Anniversary Commemorative Coins Act.*

(D) *Amounts borrowed using the authority provided under subsection (e).*

(E) *Any funds received by the Commission under section 2103(l) of this title in exchange for use of, or the right to use, any mark, copyright or patent.*

(2) *The Chairman of the Commission shall deposit in the memorial fund the amounts accepted as contributions under subsection (b). The Secretary of the Treasury shall credit to the memorial fund*

*the interest on, and the proceeds from sale or redemption of, obligations held in the memorial fund.*

*(3) The Secretary of the Treasury shall invest any portion of the memorial fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the memorial fund.*

*(d) USE OF MEMORIAL FUND.—The memorial fund shall be available to the Commission for—*

*(1) the expenses of establishing the World War II memorial, including the maintenance and preservation amount provided for in section 8(b) of the Commemorative Works Act (40 U.S.C. 1008(b));*

*(2) such other expenses, other than routine maintenance, with respect to the World War II memorial as the Commission considers warranted; and*

*(3) to secure, obtain, register, enforce, protect, and license any mark, copyright or patent that is owned by, assigned to, or licensed to the Commission under section 2103(l) of this title to aid or facilitate the construction of the World War II memorial.*

*(e) SPECIAL BORROWING AUTHORITY.—(1) To assure that groundbreaking, construction, and dedication of the World War II memorial are completed on a timely basis, the Commission may borrow money from the Treasury of the United States in such amounts as the Commission considers necessary, but not to exceed a total of \$65,000,000. Borrowed amounts shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the month in which the obligations of the Commission are issued. The interest payments on such obligations may be deferred with the approval of the Secretary of the Treasury, but any interest payment so deferred shall also bear interest.*

*(2) The borrowing of money by the Commission under paragraph (1) shall be subject to such maturities, terms, and conditions as may be agreed upon by the Commission and the Secretary of the Treasury, except that the maturities may not exceed 20 years and such borrowings may be redeemable at the option of the Commission before maturity.*

*(3) The obligations of the Commission shall be issued in amounts and at prices approved by the Secretary of the Treasury. The authority of the Commission to issue obligations under this subsection shall remain available without fiscal year limitation. The Secretary of the Treasury shall purchase any obligations of the Commission to be issued under this subsection, and for such purpose the Secretary of the Treasury may use as a public debt transaction of the United States the proceeds from the sale of any securities issued under chapter 31 of title 31. The purposes for which securities may be issued under such chapter are extended to include any purchase of the Commission's obligations under this subsection.*

*(4) Repayment of the interest and principal on any funds borrowed by the Commission under paragraph (1) shall be made from*

amounts in the memorial fund. The Commission may not use for such purpose any funds appropriated for any other activities of the Commission.

(f) *TREATMENT OF BORROWING AUTHORITY.*—In determining whether the Commission has sufficient funds to complete construction of the World War II memorial, as required by section 8 of the Commemorative Works Act (40 U.S.C. 1008), the Secretary of the Interior shall consider the funds that the Commission may borrow from the Treasury under subsection (e) as funds available to complete construction of the memorial, whether or not the Commission has actually exercised the authority to borrow such funds.

(g) *VOLUNTARY SERVICES.*—(1) Notwithstanding section 1342 of title 31, the Commission may accept from any person voluntary services to be provided in furtherance of the fund-raising activities of the Commission relating to the World War II memorial.

(2) A person providing voluntary services under this subsection shall be considered to be a Federal employee for purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and chapter 171 of title 28, relating to tort claims. A volunteer who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such voluntary service, except that any volunteers given responsibility for the handling of funds or the carrying out of a Federal function are subject to the conflict of interest laws contained in chapter 11 of title 18, and the administrative standards of conduct contained in part 2635 of title 5, Code of Federal Regulations.

(3) The Commission may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under this subsection. The Commission shall determine which expenses are eligible for reimbursement under this paragraph.

(4) Nothing in this subsection shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees.

(h) *TREATMENT OF CERTAIN CONTRACTS.*—A contract entered into by the Commission for the design or construction of the World War II memorial is not a funding agreement as that term is defined in section 201 of title 35.

(i) *EXTENSION OF AUTHORITY TO ESTABLISH MEMORIAL.*—Notwithstanding section 10 of the Commemorative Works Act (40 U.S.C. 1010), the legislative authorization for the construction of the World War II memorial contained in Public Law 103-32 (107 Stat. 90) shall not expire until December 31, 2005.

\* \* \* \* \*

## TITLE 38, UNITED STATES CODE

### PART I—GENERAL PROVISIONS

#### CHAPTER 1—GENERAL

\* \* \* \* \*



**§ 107. Certain service deemed not to be active service**

(a) \* \* \*

(1) \* \* \*

\* \* \* \* \*

(3) chapters 11, 13 (except section 1312(a)), and 23 of this title. **【Payments】** *Subject to subsection (c), payments* under such chapters shall be made at a rate of \$0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate of \$0.50 for each dollar. Any payments made before February 18, 1946, to any such member under such laws conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstance that such member's service was not service in the Armed Forces or any component thereof within the meaning of any such law.

(b) \* \* \*

\* \* \* \* \*

(c)(1) *In the case of an individual described in paragraph (2), payments under section 2302 or 2303 of this title by reason of subsection (a)(3) shall be made at the rate of \$1 for each dollar authorized.*

(2) *Paragraph (1) applies to any individual whose service is described in subsection (a) and who dies after the date of the enactment of the Veterans Benefits Act of 1999 if the individual, on the individual's date of death—*

(A) *is a citizen of the United States;*

(B) *is residing in the United States; and*

(C) *either—*

*(i) is receiving compensation under chapter 11 of this title; or*

*(ii) if such service had been deemed to be active military, naval, or air service, would have been paid pension under section 1521 of this title without denial or discontinuance by reason of section 1522 of this title.*

\* \* \* \* \*

**CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS**

\* \* \* \* \*

**§ 305. Under Secretary for Health**

(a)(1) \* \* \*

\* \* \* \* \*

**【(c) The Under Secretary for Health shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Under Secretary for Health before the completion of the term for which the Under Secretary for Health was appointed, the President shall communicate the reasons for the removal to Congress.】**

**【(d)】** (c)(1) Whenever a vacancy in the position of Under Secretary for Health occurs or is anticipated, the Secretary shall estab-

lish a commission to recommend individuals to the President for appointment to the position.

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

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

(B) Two persons representing veterans served by the Veterans Health Administration.

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

(D) The Deputy Secretary of Veterans Affairs.

(E) The Chairman of the Special Medical Advisory Group established under section 7312 of this title.

(F) One person who has held the position of Under Secretary for Health (including service as Chief Medical Director of the Veterans' Administration), if the Secretary determines that it is desirable for such person to be a member of the commission.

(3) A commission established under this subsection shall recommend at least three individuals for appointment to the position of Under Secretary for Health. The commission shall submit all recommendations to the Secretary. The Secretary shall forward the recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request the commission to recommend additional individuals for appointment.

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

\* \* \* \* \*

**§ 306. Under Secretary for Benefits**

(a) \* \* \*

\* \* \* \* \*

[(c) The Under Secretary for Benefits shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Under Secretary for Benefits before the completion of the term for which the Under Secretary for Benefits was appointed, the President shall communicate the reasons for the removal to Congress.]

[(d)] (c)(1) Whenever a vacancy in the position of Under Secretary for Benefits occurs or is anticipated, the Secretary shall establish a commission to recommend individuals to the President for appointment to the position.

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

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

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

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

(D) The Deputy Secretary of Veterans Affairs.

(E) The chairman of the Veterans' Advisory Committee on Education formed under section 3692 of this title.

(F) One person who has held the position of Under Secretary for Benefits (including service as Chief Benefits Director of the Veterans' Administration), if the Secretary determines that it is desirable for such person to be a member of the commission.

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

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

\* \* \* \* \*

**§ 315. Regional offices**

(a) \* \* \*

(b) The Secretary may maintain a regional office in the Republic of the Philippines until **[December 31, 1999]** *December 31, 2004*.

\* \* \* \* \*

**CHAPTER 5—AUTHORITY AND DUTIES OF THE SECRETARY**

\* \* \* \* \*

**Subchapter III—Advisory Committee**

\* \* \* \* \*

**§ 544. Advisory Committee on Minority Veterans**

(a)(1) \* \* \*

\* \* \* \* \*

(e) The Committee shall cease to exist **[December 31, 1999]** *December 31, 2004*.

\* \* \* \* \*

**PART II—GENERAL BENEFITS**

\* \* \* \* \*

**CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS**

\* \* \* \* \*

**Subchapter II—Dependency and Indemnity Compensation**

\* \* \* \* \*

**§ 1318. Benefits for survivors of certain veterans rated totally disabled at time of death**

(a) \* \* \*

(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran’s own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability [that either—] *rated totally disabling if—*

(1) *the disability was continuously rated totally disabling for a period of 10 or more years immediately preceding death; [or]*

(2) *[if so rated for a lesser period, was so rated continuously] the disability was continuously rated totally disabling for a period of not less than five years from the date of such veteran’s discharge or other release from active duty; and*

(3) *the veteran was a former prisoner of war who died after September 30, 1999, and whose disability was continuously rated totally disabling for a period of one year immediately preceding death.*

\* \* \* \* \*

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

SUBCHAPTER I—GENERAL

Sec. 1701. \* \* \*

\* \* \* \* \*

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

1710. \* \* \*

\* \* \* \* \*

1712B. \* \* \*

1712C. *Specialized mental health services.*

\* \* \* \* \*

SUBCHAPTER I—GENERAL

**§ 1701. Definitions**

For the purposes of this chapter—

(1) \* \* \*

\* \* \* \* \*

(6) The term “medical services” includes, in addition to medical examination, treatment, and rehabilitative services—

(A)(i) surgical services, dental services and appliances as described in sections 1710 and 1712 of this title, optometric and podiatric services, preventive health services, and (in the case of a person otherwise receiving care or services under this chapter) wheelchairs, artificial limbs, trusses, and similar ap-

pliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Secretary determines to be reasonable and necessary, except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; **[and]**

(B)(i) \* \* \*

(ii) in the case of an individual who was a recipient of services under subclause (i) of this clause at the time of—

(I) \* \* \*

(II) the death of the veteran while the veteran was participating in a hospice program (or a similar program) conducted by the Secretary, such counseling services, for a limited period, as the Secretary determines to be reasonable and necessary to assist such individual with the emotional and psychological stress accompanying the veteran's death. For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 1713(b) of this title shall be eligible for the same medical services as a veteran**[.]**; and

(C) *emergency care, or reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title.*

(7) \* \* \*

\* \* \* \* \*

(10) *The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—*

(A) *placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;*

(B) *serious impairment to bodily functions; or*

(C) *serious dysfunction of any bodily organ or part.*

\* \* \* \* \*

**§ 1703. Contracts for hospital care and medical services in non-Department facilities**

(a) When Department facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Secretary, as authorized in section 1710 of this title, may contract with non-Department facilities in order to furnish any of the following:

(1) \* \* \*

\* \* \* \* \*

(3) Hospital care or medical services for the treatment of **[medical emergencies which pose a serious threat to the life or health of a veteran]** *an emergency medical condition of a veteran who is enrolled under section 1705 of this title or who is*

receiving medical services in a Department facility or nursing home care under section 1720 of this title until such time following the furnishing of care in the non-Department facility as the veteran can be safely transferred to a Department facility.

\* \* \* \* \*

**§ 1705. Management of health care: patient enrollment system**

(a) \* \* \*

\* \* \* \* \*

(d) *The Secretary shall require in a contract under section 1703(a)(3) of this title, and as a condition of payment under section 1728(a)(2) of this title, that payment by the Secretary for treatment under such contract, or under such section, of a veteran enrolled under this section shall be made only after any payment that may be made with respect to such treatment under part A or part B of the Medicare program and after any payment that may be made with respect to such treatment by a third-party insurance provider.*

\* \* \* \* \*

**Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment**

\* \* \* \* \*

**§ 1720. Transfers for nursing home care; adult day health care**

(a)(1) \* \* \*

\* \* \* \* \*

(f)(1)(A) The Secretary is authorized to furnish adult day health care as provided for in this subsection. For the purpose only of authorizing the furnishing of such care and specifying the terms and conditions under which it may be furnished to veterans needing such care—

(i) references to “nursing home care” in [subsections (a) through (d) of this section] *subsections (b) through (d) of this section* shall be deemed to be references to “adult day health care”; and

(ii) \* \* \*

\* \* \* \* \*

**§ 1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency**

(a) \* \* \*

\* \* \* \* \*

(c)(1) Any person serving in the active military, naval, or air service who is determined by the Secretary concerned to have an alcohol or drug dependence or abuse disability [may not be transferred] *may be transferred* to any facility in order for the Secretary to furnish care or treatment and rehabilitative services for such disability [unless such transfer is during the last thirty days of

such member's enlistment period or tour of duty], in which case such care and services provided to such member shall be provided as if such member were a veteran. Any transfer of any such member for such care and services shall be made pursuant to such terms as may be agreed upon by the Secretary concerned and the Secretary, subject to the provisions of sections 1535 and 1536 of title 31.

(2) No person serving in the active military, naval, or air service may be transferred pursuant to an agreement made under paragraph (1) of this subsection unless such person requests such transfer in writing for a specified period of time [during the last thirty days of such person's enlistment period or tour of duty]. No such person transferred pursuant to such a request may be furnished such care and services by the Secretary beyond the period of time specified in such request unless such person requests in writing an extension for a further specified period of time and such request is approved by the Secretary.

**§ 1720B. Respite care**

(a) \* \* \*

(b) For the purpose of this section, the term "respite care" means hospital [or nursing home care], *nursing home care, or home-based care* which—

(1) \* \* \*

(2) is furnished in a Department facility *or in the home of a veteran* on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home; and

(3) \* \* \*

\* \* \* \* \*

**§ 1712C. Specialized mental health services**

(a) *The Secretary shall carry out programs for purposes of enhancing the provision of specialized mental health services to veterans.*

(b) *The programs carried out by the Secretary under subsection (a) shall include the following:*

(1) *Programs relating to the treatment of Post Traumatic Stress Disorder (PTSD), including programs for—*

(A) *the establishment and operation of additional outpatient and residential treatment facilities for Post Traumatic Stress Disorder in areas that are underserved by existing programs relating to Post Traumatic Stress Disorder, as determined by qualified mental health personnel of the Department who oversee such programs;*

(B) *the provision of services in response to the specific needs of veterans with Post Traumatic Stress Disorder and related disorders, including short-term or long-term care services that combine residential treatment of Post Traumatic Stress Disorder;*

(C) *the provision of Post Traumatic Stress Disorder or dedicated case management services on an outpatient basis; and*

*(D) the enhancement of staffing of existing programs relating to Post Traumatic Stress Disorder which have exceeded the projected workloads for such programs.*

*(2) Programs relating to substance use disorders, including programs for—*

*(A) the establishment and operation of additional Department-based or community-based residential treatment facilities;*

*(B) the expansion of the provision of opioid treatment services, including the establishment and operation of additional programs for the provision of opioid treatment services; and*

*(C) the reestablishment or enhancement of substance use disorder services at facilities at which such services have been eliminated or curtailed, with an emphasis on the reestablishment or enhancement of services at facilities where demand for such services is high or which serve large geographic areas.*

*(c)(1) The Secretary shall provide for the allocation of funds for the programs carried out under this section in a centralized manner.*

*(2) The allocation of funds for such programs shall—*

*(A) be based upon an assessment of the need for funds conducted by qualified mental health personnel of the Department who oversee such programs; and*

*(B) emphasize, to the maximum extent practicable, the availability of funds for the programs described in paragraphs (1) and (2) of subsection (b).*

\* \* \* \* \*

**Subchapter III—Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans**

\* \* \* \* \*

**§ 1728. Reimbursement of certain medical expenses**

(a) The Secretary may, under such regulations as the Secretary shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including travel and incidental expenses under the terms and conditions set forth in section 111 of this title), for which such veterans have made payment, from sources other than the Department, where—

(1) \* \* \*

(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected disability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, [or] (D) for any illness, injury, or dental condition in the case of a veteran who (i) is a participant in a vocational rehabilitation program (as defined in section 3101(9) of this title), and (ii) is medically determined to have been in need of



care or treatment to make possible such veteran's entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition, or (E) for any emergency medical condition of a veteran enrolled under section 1705 of this title; and

(3) \* \* \*

\* \* \* \* \*

**§ 1729A. Department of Veterans Affairs Medical Care Collections Fund**

(a) \* \* \*

\* \* \* \* \*

(d)~~[(1)]~~ Of the total amount recovered or collected by the Department during a fiscal year under the provisions of law referred to in subsection (b) and made available from the fund, the Secretary shall make available to ~~each designated health care region]~~ *each Department health care facility* of the Department an amount that bears the same ratio to the total amount so made available as the amount recovered or collected by ~~such region]~~ *such facility* during that fiscal year under such provisions of law bears to such total amount recovered or collected during that fiscal year. The Secretary shall make available to ~~each region]~~ *each facility* the entirety of the amount specified to be made available to ~~such region]~~ *such facility* by the preceding sentence.

~~[(2)]~~ In this subsection, the term "designated health care regions of the Department" means the geographic areas designated by the Secretary for purposes of the management of, and allocation of resources for, health care services provided by the Department.]

\* \* \* \* \*

**CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS**

Sec.  
2400. \* \* \*

\* \* \* \* \*

2412. Arlington National Cemetery: persons eligible for burial.  
2413. Arlington National Cemetery: persons eligible for placement in columbarium.

\* \* \* \* \*

**§2402. Persons eligible for interment in national cemeteries**

Under such regulations as the Secretary may prescribe and subject to the provisions of section 6105 of this title, the remains of the following persons may be buried in any open national cemetery under the control of the National Cemetery Administration:

(1) \* \* \*

\* \* \* \* \*

(7) Any person who at the time of death was entitled (*or but for age would have been entitled*) to retired pay under ~~chapter 67]~~ *chapter 1223* of title 10 ~~or would have been enti-~~

tled to retired pay under that chapter but for the fact that the person was under 60 years of age.】.

\* \* \* \* \*

**§2412. Arlington National Cemetery: persons eligible for burial**

(a) *PRIMARY ELIGIBILITY.*—*The remains of the following individuals may be buried in Arlington National Cemetery:*

(1) *Any member of the Armed Forces who dies while on active duty.*

(2) *Any retired member of the Armed Forces and any person who served on active duty and at the time of death was entitled (or but for age would have been entitled) to retired pay under chapter 1223 of title 10.*

(3) *Any former member of the Armed Forces separated for physical disability before October 1, 1949, who—*

(A) *served on active duty; and*

(B) *would have been eligible for retirement under the provisions of section 1201 of title 10 (relating to retirement for disability) had that section been in effect on the date of separation of the member.*

(4) *Any former member of the Armed Forces whose last active duty military service terminated honorably and who has been awarded one of the following decorations:*

(A) *Medal of Honor.*

(B) *Distinguished Service Cross, Air Force Cross, or Navy Cross.*

(C) *Distinguished Service Medal.*

(D) *Silver Star.*

(E) *Purple Heart.*

(5) *Any former prisoner of war who dies on or after November 30, 1993.*

(6) *The President or any former President.*

(7) *Any former member of the Armed Forces whose last discharge or separation from active duty was under honorable conditions and who is or was one of the following:*

(A) *Vice President.*

(B) *Member of Congress.*

(C) *Chief Justice or Associate Justice of the Supreme Court.*

(D) *The head of an Executive department (as such departments are listed in section 101 of title 5).*

(E) *An individual who served in the foreign or national security services, if such individual died as a result of a hostile action outside the United States in the course of such service.*

(8) *Any individual whose eligibility is authorized in accordance with subsection (b).*

(b) *ADDITIONAL AUTHORIZATIONS OF BURIAL.*—(1) *In the case of a former member of the Armed Forces not otherwise covered by subsection (a) whose last discharge or separation from active duty was under honorable conditions, if the Secretary of Defense makes a determination referred to in paragraph (3) with respect to such mem-*

ber, the Secretary of Defense may authorize the burial of the remains of such former member in Arlington National Cemetery under subsection (a)(8).

(2) In the case of any individual not otherwise covered by subsection (a) or paragraph (1), if the President makes a determination referred to in paragraph (3) with respect to such individual, the President may authorize the burial of the remains of such individual in Arlington National Cemetery under subsection (a)(8).

(3) A determination referred to in paragraph (1) or (2) is a determination that the acts, service, or other contributions to the Nation of the former member or individual concerned are of equal or similar merit to the acts, service, or other contributions to the Nation of any of the persons listed in subsection (a).

(4)(A) In the case of an authorization for burial under this subsection, the President or the Secretary of Defense, as the case may be, shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the authorization not later than 72 hours after the authorization.

(B) Each report under subparagraph (A) shall—

(i) identify the individual authorized for burial; and

(ii) provide a justification for the authorization for burial.

(5)(A) In the case of an authorization for burial under this subsection, the President or the Secretary of Defense, as the case may be, shall publish in the Federal Register a notice of the authorization as soon as practicable after the authorization.

(B) Each notice under subparagraph (A) shall—

(i) identify the individual authorized for burial; and

(ii) provide a justification for the authorization for burial.

(c) **ELIGIBILITY OF FAMILY MEMBERS.**—The remains of the following individuals may be buried in Arlington National Cemetery:

(1)(A) Except as provided in subparagraph (B), the spouse, surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a person listed in subsection (a), but only if buried in the same gravesite as that person.

(B) In a case under subparagraph (A) in which the same gravesite may not be used due to insufficient space, a person otherwise eligible under that subparagraph may be interred in a gravesite adjoining the gravesite of the person listed in subsection (a) if space in such adjoining gravesite had been reserved for the burial of such person otherwise eligible under that subparagraph before January 1962.

(2)(A) The spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces on active duty if such spouse, minor child, or unmarried adult child dies while such member is on active duty.

(B) The individual whose spouse, minor child, and unmarried adult child is eligible under subparagraph (A), but only if buried in the same gravesite as the spouse, minor child, or unmarried adult child.

(3) The parents of a minor child or unmarried adult child whose remains, based on the eligibility of a parent, are already buried in Arlington National Cemetery, but only if buried in the same gravesite as that minor child or unmarried adult child.

(4)(A) *Subject to subparagraph (B), the surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces who was lost, buried at sea, or officially determined to be permanently absent in a status of missing or missing in action.*

(B) *A person is not eligible under subparagraph (A) if a memorial to honor the memory of the member is placed in a cemetery in the national cemetery system, unless the memorial is removed. A memorial removed under this subparagraph may be placed, at the discretion of the Superintendent, in Arlington National Cemetery.*

(5) *The surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces buried in a cemetery under the jurisdiction of the American Battle Monuments Commission.*

(d) *SPOUSES.—For purposes of subsection (c)(1), a surviving spouse of a person whose remains are buried in Arlington National Cemetery by reason of eligibility under subsection (a) who has remarried is eligible for burial in the same gravesite of that person. The spouse of the surviving spouse is not eligible for burial in such gravesite.*

(e) *DISABLED ADULT UNMARRIED CHILDREN.—In the case of an unmarried adult child who is incapable of self-support up to the time of death because of a physical or mental condition, the child may be buried under subsection (c) without requirement for approval by the Superintendent under that subsection if the burial is in the same gravesite as the gravesite in which the parent, who is eligible for burial under subsection (a), has been or will be buried.*

(f) *FAMILY MEMBERS OF PERSONS BURIED IN A GROUP GRAVESITE.—In the case of a person eligible for burial under subsection (a) who is buried in Arlington National Cemetery as part of a group burial, the surviving spouse, minor child, or unmarried adult child of the member may not be buried in the group gravesite.*

(g) *EXCLUSIVE AUTHORITY FOR BURIAL IN ARLINGTON NATIONAL CEMETERY.—Eligibility for burial of remains in Arlington National Cemetery prescribed under this section is the exclusive eligibility for such burial.*

(h) *APPLICATION FOR BURIAL.—A request for burial of remains of an individual in Arlington National Cemetery made before the death of the individual may not be considered by the Secretary of the Army, the Secretary of Defense, or any other responsible official.*

(i) *REGISTER OF BURIED INDIVIDUALS.—(1) The Secretary of the Army shall maintain a register of each individual buried in Arlington National Cemetery and shall make such register available to the public.*

(2) *With respect to each such individual buried on or after January 1, 1998, the register shall include a brief description of the basis of eligibility of the individual for burial in Arlington National Cemetery.*

(j) *Definitions.—For purposes of this section:*

(1) *The term “retired member of the Armed Forces” means—*  
 (A) *any member of the Armed Forces on a retired list who served on active duty and who is entitled to retired pay;*

(B) any member of the Fleet Reserve or Fleet Marine Corps Reserve who served on active duty and who is entitled to retainer pay; and

(C) any member of a reserve component of the Armed Forces who has served on active duty and who has received notice from the Secretary concerned under section 12731(d) of title 10 of eligibility for retired pay under chapter 1223 of title 10.

(2) The term "former member of the Armed Forces" includes a person whose service is considered active duty service pursuant to a determination of the Secretary of Defense under section 401 of Public Law 95-202 (38 U.S.C. 106 note).

(3) The term "Superintendent" means the Superintendent of Arlington National Cemetery.

**§2413. Arlington National Cemetery: persons eligible for placement in columbarium**

(a) *ELIGIBILITY.*—The cremated remains of the following individuals may be placed in the columbarium in Arlington National Cemetery:

(1) A person eligible for burial in Arlington National Cemetery under section 2412 of this title.

(2)(A) A veteran whose last period of active duty service (other than active duty for training) ended honorably.

(B) The spouse, surviving spouse, minor child, and, at the discretion of the Superintendent of Arlington National Cemetery, unmarried adult child of such a veteran.

(b) *SPOUSE.*—Section 2412(d) of this title shall apply to a spouse under this section in the same manner as it applies to a spouse under section 2412 of this title.

\* \* \* \* \*

**PART III—READJUSTMENT AND RELATED BENEFITS**

\* \* \* \* \*

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

\* \* \* \* \*

**Subchapter III—Administrative Provisions**

\* \* \* \* \*

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

(a)(1) \* \* \*

\* \* \* \* \*

(c) The Secretary may not enter into agreements under subsection (a) after [December 31, 1998] *December 31, 2001.*

\* \* \* \* \*

**PART IV—GENERAL ADMINISTRATIVE  
PROVISIONS**

\* \* \* \* \*

**CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER  
WARDS**

\* \* \* \* \*

**§ 5503. Hospitalized veterans and estates of incompetent in-  
stitutionalized veterans**

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

[(b)(1)(A) In any case in which a veteran having neither spouse nor child is being furnished hospital treatment or institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, is rated by the Secretary in accordance with regulations as being incompetent, and the veteran's estate (excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home), from any source equals or exceeds \$1,500, further payments of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to \$500.

[(B) The amount which would be payable but for this paragraph shall be paid to the veteran in a lump sum; however, no payment of a lump sum herein authorized shall be made to the veteran until after the expiration of six months following a finding of competency and in the event of the veterans' death before payment of such lump sum no part thereof shall be payable.

[(C) The Secretary may waive the discontinuance under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Secretary determines that the waiver is necessary in order to avoid a hardship for the veteran. Any such waiver shall be made pursuant to regulations which the Secretary shall prescribe.

[(2) Where any benefit is discontinued by reason of paragraph (1) of this subsection the Secretary may nevertheless apportion and pay to the dependent parents of the veteran on the basis of need all or any part of the benefit which would otherwise be payable to or for such incompetent veteran. Paragraph (1) of this subsection shall not prevent the payment, out of any remaining amounts discontinued under that paragraph, on account of any veteran of so much of the veteran's pension, compensation, or retirement pay as equals the amount charged to the veteran for the veteran's current care and maintenance in the institution in which treatment or care is furnished the veteran, but not more than the amount determined by the Secretary to be the proper charge as fixed by any applicable statute or valid administrative regulation.

[(3) All or any part of the pension, compensation, or retirement pay payable on account of any incompetent veteran who is being furnished hospital treatment, institutional or domiciliary care may, in the discretion of the Secretary, be paid to the chief officer of the institution wherein the veteran is being furnished such treatment

or care, to be properly accounted for by such chief officer and to be used for the benefit of the veteran.

[(c)] Any veteran subject to the provisions of subsection (b) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. In no event shall increased compensation, pension, or retirement pay of such veteran be granted for any period more than one year before receipt of satisfactory evidence showing such veteran has a spouse, child, or dependent parent.]

[(d)] (b) Notwithstanding any other provision of this section or any other provision of law, no reduction shall be made in the pension of any veteran for any part of the period during which the veteran is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

[(e)] (c) Where any veteran in receipt of an aid and attendance allowance described in section 1114(r) of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of the veteran's admission for such hospitalization for so long as such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Department, of increased pension based on need of regular aid and attendance or additional compensation based on need of regular aid and attendance as described in subsection (l) or (m) of section 1114 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veterans' admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization within six months from the date of such departure, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.

[(f)] (d)(1) For the purposes of this subsection—(A) the term "Medicaid plan" means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and (B) the term "nursing facility" means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r), other than a facility that is a State home with respect to which the Secretary makes per diem payments for nursing home care pursuant to section 1741(a) of this title.

(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of \$90 per month shall be paid to or for the veteran for any period after the month of admission to such nursing facility.

(3) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) of this subsection.

(4) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection

that is paid to or for the veteran by reason of the inability or failure of the Secretary to reduce the veteran's pension under this subsection unless such inability or failure is the result of a willful concealment by the veteran of information necessary to make a reduction in pension under this subsection.

(5) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child.

(6) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(7) This subsection expires on September 30, 2002.

\* \* \* \* \*

**PART VI—ACQUISITION AND DISPOSITION OF PROPERTY**

\* \* \* \* \*

**Subchapter V—Enhanced-Use Leases of Real Property**

\* \* \* \* \*

**§ 8162. Enhanced-use leases**

(a)(1) \* \* \*

\* \* \* \* \*

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

(2) The term of an enhanced-use lease [may not exceed—

(A) 35 years, in the case of a lease involving the construction of a new building or the substantial rehabilitation of an existing building, as determined by the Secretary; or

(B) 20 years, in the case of a lease not described in subparagraph (A).] *may not exceed 55 years.*

(3)(A) \* \* \*

\* \* \* \* \*

(4)(A) Any payment by the Secretary for the use of space or services by the Department on property that has been leased under this subchapter may [only] be made from funds appropriated to the Department for the activity that uses the space or services. [No other such payment may be made by the Secretary to a lessee under an enhanced-use lease unless the authority to make the payment is provided in advance in an appropriation Act.]

(B) *Any payment by the Secretary in contribution to capital activities on property that has been leased under this subchapter may be made from amounts appropriated to the Department for construction, minor projects.*

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

\* \* \* \* \*



**§ 8169. Expiration**

The authority of the Secretary to enter into enhanced-use leases under this subchapter expires on **[December 31, 2001]** *December 31, 2011.*

\* \* \* \* \*

---

**HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAM ACT OF 1992**

\* \* \* \* \*

**SEC. 3. GRANTS**

(a) **AUTHORITY TO MAKE GRANTS.**—(1) Subject to the availability of appropriations provided for under section 12, the Secretary of Veterans Affairs, shall make grants to assist eligible entities in establishing new programs to furnish, *and expanding existing programs for furnishing*, outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans.

(2) The authority of the Secretary to make grants under this section expires on **[September 30, 1999]** *September 30, 2001.*

\* \* \* \* \*

**SEC. 12. AUTHORIZATION OF APPROPRIATIONS**

There are authorized to be appropriated to carry out this Act (other than section 8) \$48,000,000 for each of the fiscal years 1993 through 1997 *and \$50,000,000 for each of fiscal years 2000 and 2001.* Nothing in this act shall be construed to diminish funds for, continuation of, or expansion of existing programs administered by the Secretary of Veterans Affairs to serve veterans.

---

**PERSIAN GULF WAR VETERANS' BENEFITS ACT**

\* \* \* \* \*

**SEC. 105. OUTREACH TO PERSIAN GULF VETERANS.**

(a) \* \* \*

(b) **NEWSLETTER**—(1) \* \* \*

(2) The requirement under this subsection for the distribution of the newsletter shall terminate on **[December 31, 1999]** *December 31, 2002.*

\* \* \* \* \*

**SEC. 107. OUTREACH TO PERSIAN GULF VETERANS.**

(a) \* \* \*

(b) DURATION OF PROGRAM.—The program shall be carried out during the period beginning on November 1, 1994, and ending on ~~December 31, 1999~~ *December 31, 2002*.

\* \* \* \* \*

**STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT**

\* \* \* \* \*

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

(a) \* \* \*

\* \* \* \* \*

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

(A) \* \* \*

\* \* \* \* \*

*(H) \$10,000,000 for fiscal year 2000.*

*(I) \$10,000,000 for fiscal year 2001.*

**VETERANS PROGRAMS ENHANCEMENT ACT OF 1998**

\* \* \* \* \*

**SEC. 703. AUTHORIZATION OF APPROPRIATIONS.**

(a) \* \* \*

(b) LIMITATION.—(1) The projects authorized in section 701(a) may only be carried out using

(A) \* \* \*

*(B) funds appropriated for fiscal year 2000 pursuant to the authorization of appropriations in section 341(b)(1) of the Veterans Benefits Act of 1999;*

**[(B)]** *(C) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1999 that remain available for obligation; and*

**[(C)]** *(D) funds appropriated for Construction, Major Projects, for fiscal year 1999 for a category of activity not specific to a project.*

(2) \* \* \*

\* \* \* \* \*

**PUBLIC LAW 103-32**

**SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.**

(a) \* \* \*

\* \* \* \* \*

**[SEC. 3. PRIVATE CONTRIBUTIONS.**

【The American Battle Monuments Commission shall solicit and accept private contributions for the memorial.

**[SEC. 4. FUND IN THE TREASURY FOR THE MEMORIAL.**

【(a) IN GENERAL.—There is hereby created in the Treasury a fund which shall be available to the American Battle Monuments Commission for the expenses of establishing the memorial. The fund shall consist of—

- 【(1) amounts deposited, and interest and proceeds credited, under subsection (b);
- 【(2) obligations obtained under subsection (c); and
- 【(3) the amount of surcharges paid to the Commission for the memorial under the World War II 50th Anniversary Commemorative Coins Act.

【(b) DEPOSITS AND CREDITS.—The Chairman of the Commission shall deposit in the fund the amounts accepted as contributions under section 3. The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

【(c) OBLIGATIONS.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that as determined by the Chairman of the Commission, has a maturity suitable for the fund.

【(d) ABOLITION.—Upon the final settlement of the accounts of the fund, the Secretary of the Treasury shall submit to the Congress a draft of legislation (including technical and conforming provisions) recommended by the Secretary for the abolition of the fund.

**[SEC. 5. DEPOSIT OF EXCESS FUNDS.**

【If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the under section 10(b) of that Act, there remains a balance in the fund created by section 4, the Chairman of the American Battle Monuments Commission shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.】