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106TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 106-397

VETERANS PROGRAMS ENHANCEMENT ACT OF 2000

SEPTEMBER 6, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 1810]

The Committee on Veterans' Affairs, to which was referred a bill (S. 1810) to clarify and improve veterans' claims and appellate procedures, 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 Programs Enhancement Act of 2000”.

(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—BENEFITS MATTERS

Subtitle A—Compensation and Pension Matters

Sec. 101. Clarification and enhancement of authorities relating to the processing of claims for veterans benefits.

Sec. 102. Expansion of list of diseases presumed to be service-connected for radiation-exposed veterans.

Sec. 103. Special monthly compensation for female veterans who lose a breast as a result of a service-connected disability.

Subtitle B—Education Matters

Sec. 111. Making uniform the requirement for high school diploma or equivalency before application for Montgomery GI Bill benefits.

Sec. 112. Repeal of requirement for initial obligated period of active duty as condition of eligibility for Montgomery GI Bill benefits.

Sec. 113. Availability under survivors' and dependents' educational assistance of preparatory courses for college and graduate school entrance exams.

Sec. 114. Election of certain recipients of commencement of period of eligibility for survivors' and dependents' educational assistance.

Sec. 115. Adjusted effective date for award of survivors' and dependents' educational assistance.

Subtitle C—Housing Matters

- Sec. 121. Elimination of reduction in assistance for specially adapted housing for disabled veterans for veterans having joint ownership of housing units.
 Sec. 122. Increase in maximum amount of housing loan guarantee.
 Sec. 123. Termination of collection of loan fees from veterans rated eligible for compensation at pre-discharge rating examinations.

Subtitle D—Insurance Matters

- Sec. 131. Premiums for term service disabled veterans' insurance for veterans older than age 70.
 Sec. 132. Increase in automatic maximum coverage under Servicemembers' Group Life Insurance and Veterans' Group Life Insurance.
 Sec. 133. Family coverage under Servicemembers' Group Life Insurance.

Subtitle E—Burial Matters

- Sec. 141. Eligibility for interment in the national cemeteries of certain Filipino veterans of World War II.

Subtitle F—Employment Matters

- Sec. 151. Veterans employment emphasis under Federal contracts for recently separated veterans.
 Sec. 152. Comptroller General audit of veterans employment and training service of the Department of Labor.

Subtitle G—Benefits for Children of Female Vietnam Veterans

- Sec. 161. Short title.
 Sec. 162. Benefits for the children of female Vietnam veterans who suffer from certain birth defects.

Subtitle H—Other Benefits Matters

- Sec. 171. Review of dose reconstruction program of the Defense Threat Reduction Agency.

TITLE II—HEALTH CARE MATTERS

- Sec. 201. Veterans not subject to copayments for medications.
 Sec. 202. Establishment of position of Advisor on Physician Assistants within Office of Undersecretary for Health.
 Sec. 203. Temporary full-time appointments of certain medical personnel.

TITLE III—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Construction Matters

- Sec. 301. Authorization of major medical facility projects for fiscal year 2001.
 Sec. 302. Authorization of additional major medical facility project for fiscal year 2000.
 Sec. 303. Authorization of appropriations.

Subtitle B—Other Matters

- Sec. 311. Maximum term of lease of Department of Veterans Affairs property for homeless purposes.
 Sec. 312. Land conveyance, Miles City Veterans Administration Medical Complex, Miles City, Montana.
 Sec. 313. Conveyance of Ft. Lyon Department of Veterans Affairs Medical Center, Colorado, to the State of Colorado.
 Sec. 314. Effect of closure of Ft. Lyon Department of Veterans Affairs Medical Center on administration of health care for veterans.

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—BENEFITS MATTERS

Subtitle A—Compensation and Pension Matters

SEC. 101. CLARIFICATION AND ENHANCEMENT OF AUTHORITIES RELATING TO THE PROCESSING OF CLAIMS FOR VETERANS BENEFITS.

- (a) DEFINITION OF CLAIMANT.—Chapter 51 is amended—
 (1) by redesignating section 5101 as section 5101A; and
 (2) by inserting before section 5101A, as so redesignated, the following new section:

“§ 5101. Definition of ‘claimant’

“For purposes of this chapter, the term ‘claimant’ means any individual who submits a claim for benefits under the laws administered by the Secretary.”

(b) INCOMPLETE APPLICATIONS.—Section 5103(a) is amended by striking “evidence” both places it appears and inserting “information”.

(c) REAFFIRMATION AND CLARIFICATION OF DUTY TO ASSIST.—Chapter 51 is further amended by inserting after section 5103 the following new section:

“§ 5103A. Assistance to claimants

“(a) Except as provided in subsection (b), the Secretary shall make reasonable efforts to assist in the development of information and medical or lay evidence necessary to establish the eligibility of a claimant for benefits under the laws administered by the Secretary.

“(b) The Secretary is not required to provide assistance to a claimant under subsection (a) if no reasonable possibility exists, as determined in accordance with regulations prescribed under subsection (f), that such assistance would aid in the establishment of the eligibility of the claimant for benefits under the laws administered by the Secretary.

“(c) In any claim for benefits under the laws administered by the Secretary, the assistance provided by the Secretary under subsection (a) shall include the following:

“(1) Informing the claimant and the claimant’s representative, if any, of the information and medical or lay evidence needed in order to aid in the establishment of the eligibility of the claimant for benefits under the laws administered by the Secretary.

“(2) Informing the claimant and the claimant’s representative, if any, if the Secretary is unable to obtain any information or medical or lay evidence described in paragraph (1).

“(d)(1) In any claim for disability compensation under chapter 11 of this title, the assistance provided by the Secretary under subsection (a) shall include, in addition to the assistance provided under subsection (c), the following:

“(A) Obtaining the relevant service and medical records maintained by applicable governmental entities that pertain to the veteran for the period or periods of the veteran’s service in the active military, naval, or air service.

“(B) Obtaining existing records of relevant medical treatment or examination provided at Department health-care facilities or at the expense of the Department, but only if the claimant has furnished information sufficient to locate such records.

“(C) Obtaining from governmental entities any other relevant records the claimant adequately identifies and authorizes the Secretary to obtain.

“(D) Making reasonable efforts to obtain from private persons and entities any other relevant records the claimant adequately identifies and authorizes the Secretary to obtain.

“(E) Providing a medical examination needed for the purpose of determining the existence of a current disability if the claimant submits verifiable evidence, as determined in accordance with the regulations prescribed under subsection (f), establishing that the claimant is unable to afford medical treatment.

“(F) Providing such other assistance as the Secretary considers appropriate.

“(2) The efforts made to obtain records under subparagraphs (A), (B), and (C) of paragraph (1) shall continue until it is reasonably certain, as determined in accordance with the regulations prescribed under subsection (f), that such records do not exist.

“(e) If while obtaining or after obtaining information or lay or medical evidence under subsection (d) the Secretary determines that a medical examination or a medical opinion is necessary to substantiate entitlement to a benefit, the Secretary shall provide such medical examination or obtain such medical opinion.

“(f) The Secretary shall prescribe regulations for purposes of the administration of this section.”.

(d) COST OF OTHER AGENCIES IN FURNISHING INFORMATION.—Section 5106 is amended by adding at the end the following new sentence: “The cost of providing such information shall be borne by the department or agency providing such information.”.

(e) REPEAL OF “WELL-GROUNDED CLAIM” RULE.—Section 5107 is amended to read as follows:

“§ 5107. Burden of proof; benefit of the doubt

“(a) Except when otherwise provided by this title or by the Secretary in accordance with the provisions of this title, a claimant shall have the burden of proof in establishing entitlement to benefits under the laws administered by the Secretary.

“(b) The Secretary shall consider all information and lay and medical evidence of record in a case before the Department with respect to benefits under laws administered by the Secretary, and shall give the claimant the benefit of the doubt when there is an approximate balance of positive and negative evidence regarding an issue material to the determination of the matter.”.

(f) APPLICABILITY OF ENHANCED AUTHORITIES.—(1) Except as specifically provided otherwise, section 5103A of title 38, United States Code (as added by subsection (c)), and section 5107 of title 38, United States Code (as amended by subsection (e)), shall apply to any claim pending on or filed on or after the date of the enactment of this Act.

(2)(A) In the case of a claim for benefits described in subparagraph (B), the Secretary of Veterans Affairs shall, upon the request of the claimant, or upon the Secretary’s motion, order such claim readjudicated in accordance with section 5103A of

title 38, United States Code (as so added), and section 5107 of title 38, United States Code (as so amended), as if the denial or dismissal of such claim as described in that subparagraph had not been made.

(B) A claim for benefits described in this subparagraph is any claim for benefits—

(i) the denial of which became final during the period beginning on July 14, 1999, and ending on the date of the enactment of this Act; and

(ii) which was denied or dismissed because the claim was not well grounded (as that term was used in section 5107(a) of title 38, United States Code, during the period referred to in clause (i)).

(3) No claim shall be readjudicated under paragraph (2) unless the request for readjudication is filed, or the motion made, not later than two years after the date of the enactment of this Act.

(4) In the absence of a timely request of a claimant under paragraph (3), nothing in this subsection shall be construed as establishing a duty on the part of the Secretary to locate and readjudicate a claim described in paragraph (2)(B).

(g) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 51 is amended—

(1) by striking the item relating to section 5101 and inserting the following new items:

“5101. Definition of ‘claimant’.
“5101A. Claims and forms.”; and

(2) by inserting after the item relating to section 5103 the following new item:

“5103A. Assistance to claimants.”.

SEC. 102. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR RADIATION-EXPOSED VETERANS.

Section 1112(c)(2) is amended by adding at the end the following:

“(P) Lung cancer.

“(Q) Colon cancer.

“(R) Tumors of the brain and central nervous system.

“(S) Ovarian cancer.”.

SEC. 103. SPECIAL MONTHLY COMPENSATION FOR FEMALE VETERANS WHO LOSE A BREAST AS A RESULT OF A SERVICE-CONNECTED DISABILITY.

(a) IN GENERAL.—Section 1114(k) is amended—

(1) by striking “or has suffered” and inserting “has suffered”; and

(2) by inserting after “air and bone conduction,” the following: “or, in the case of a female veteran, has suffered the anatomical loss of one or both breasts (including loss by mastectomy).”.

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to payment of compensation under section 1114(k) of title 38, United States Code (as so amended), for months beginning on or after that date.

(2) No compensation may be paid for any period before the date of the enactment of this Act by reason of the amendments made by subsection (a).

Subtitle B—Education Matters

SEC. 111. MAKING UNIFORM THE REQUIREMENT FOR HIGH SCHOOL DIPLOMA OR EQUIVALENCY BEFORE APPLICATION FOR MONTGOMERY GI BILL BENEFITS.

(a) ACTIVE DUTY PROGRAM.—(1) Section 3011 is amended—

(A) in subsection (a), by striking paragraph (2) and inserting the following new paragraph (2):

“(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and”;

(B) by striking subsection (e); and

(C) by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively.

(2) Section 3017(a)(1)(A)(ii) is amended by striking “clause (2)(A)” and inserting “clause (2)”.

(b) SELECTED RESERVE PROGRAM.—Section 3012 is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following new paragraph (2):

“(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading

to a standard college degree, before applying for benefits under this section; and”;

(2) by striking subsection (f); and

(3) by redesignating subsection (g) as subsection (f).

(c) WITHDRAWAL OF ELECTION NOT TO ENROLL.—Section 3018(b)(4) is amended to read as follows:

“(4) before applying for benefits under this section—

“(A) completes the requirements of a secondary school diploma (or equivalency certificate); or

“(B) successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and”.

(d) EDUCATIONAL ASSISTANCE PROGRAM FOR MEMBERS OF THE SELECTED RESERVE.—Paragraph (2) of section 16132(a) of title 10, United States Code, is amended to read as follows:

“(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or an equivalency certificate);”.

SEC. 112. REPEAL OF REQUIREMENT FOR INITIAL OBLIGATED PERIOD OF ACTIVE DUTY AS CONDITION OF ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS.

(a) ACTIVE DUTY PROGRAM.—Section 3011, as amended by section 111 of this Act, is further amended—

(1) in subsection (a)(1)(A)—

(A) by striking clause (i) and inserting the following new clause (i):

“(i) who serves an obligated period of active duty of at least two years of continuous active duty in the Armed Forces; or”;

(B) in clause (ii)(II), by striking “in the case of an individual who completed not less than 20 months” and all that follows through “was at least three years” and inserting “if, in the case of an individual with an obligated period of service of two years, the individual completes not less than 20 months of continuous active duty under that period of obligated service, or, in the case of an individual with an obligated period of service of three years, the individual completes not less than 30 months of continuous active duty under that period of obligated service”;

(2) in subsection (d)(1), by striking “individual’s initial obligated period of active duty” and inserting “obligated period of active duty on which an individual’s entitlement to assistance under this section is based”;

(3) in subsection (g)(2)(A), as redesignated by section 111(a)(1)(C) of this Act, by striking “during an initial period of active duty,” and inserting “during the obligated period of active duty on which entitlement to assistance under this section is based.”; and

(4) in subsection (h), as so redesignated, by striking “initial”.

(b) SELECTED RESERVE PROGRAM.—Section 3012 is amended—

(1) in subsection (a)(1)(A)(i), by striking “, as the individual’s” and all that follows through “Armed Forces” and inserting “an obligated period of active duty of at least two years of continuous active duty in the Armed Forces”; and

(2) in subsection (e)(1), by striking “initial”.

(c) DURATION OF ASSISTANCE.—Section 3013 is amended—

(1) in subsection (a)(2), by striking “individual’s initial obligated period of active duty” and inserting “obligated period of active duty on which such entitlement is based”; and

(2) in subsection (b)(1), by striking “individual’s initial obligated period of active duty” and inserting “obligated period of active duty on which such entitlement is based”.

(d) AMOUNT OF ASSISTANCE.—Section 3015 is amended—

(1) in the second sentence of subsection (a), by inserting before “a basic educational assistance allowance” the following: “in the case of an individual entitled to an educational assistance allowance under this chapter whose obligated period of active duty on which such entitlement is based is three years.”;

(2) in subsection (b), by striking “and whose initial obligated period of active duty is two years,” and inserting “whose obligated period of active duty on which such entitlement is based is two years.”; and

(3) in subsection (c)(2), by striking subparagraphs (A) and (B) and inserting the following new subparagraphs (A) and (B):

“(A) whose obligated period of active duty on which such entitlement is based is less than three years;

“(B) who, beginning on the date of the commencement of such obligated period of active duty, serves a continuous period of active duty of not less than three years; and”.

SEC. 113. AVAILABILITY UNDER SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE OF PREPARATORY COURSES FOR COLLEGE AND GRADUATE SCHOOL ENTRANCE EXAMS.

Paragraph (5) of section 3501(a) is amended by adding at the end the following new sentence: "The term also includes any preparatory course described in section 3002(3)(B) of this title."

SEC. 114. ELECTION OF CERTAIN RECIPIENTS OF COMMENCEMENT OF PERIOD OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

Section 3512(a)(3) is amended by striking "8 years after," and all that follows through the end and inserting "8 years after the date elected by the person (if such election is approved as the beginning date of such period by the Secretary and is made during the period between such birthdays) which beginning date—

"(A) in the case of a person whose eligibility is based on a parent who has a service-connected total disability permanent in nature, shall be between the dates described in subsection (d) of this section; and

"(B) in the case of a person whose eligibility is based on the death of a parent, shall be between—

"(i) the date of the parent's death; and

"(ii) the date of the Secretary's decision that the death was service-connected;"

SEC. 115. ADJUSTED EFFECTIVE DATE FOR AWARD OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 5113 is amended—

(1) in subsection (a), by striking "subsection (b) of this section," and inserting "subsections (b) and (c);";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b)(1) In determining the effective date of an award of educational assistance under chapter 35 of this title for an individual described in paragraph (2) based on an original claim, the Secretary shall consider the individual's application under section 3513 of this title as having been filed on the effective date from which the Secretary, by rating decision, determines that the veteran from whom eligibility for such educational assistance is derived either died of a service-connected disability or established the existence of a total service-connected disability evaluated as permanent in nature if that effective date is more than one year before the date the rating decision is made.

"(2) An individual referred to in paragraph (1) is a person eligible for educational assistance under chapter 35 of this title by reason of subparagraph (A)(i), (A)(ii), (B), or (D) of section 3501(a)(1) of this title who—

"(A) submits to the Secretary an original application under section 3513 of this title for educational assistance under that chapter within one year after the date that the Secretary issues the rating decision on which the individual's eligibility for such educational assistance is based;

"(B) claims such educational assistance for pursuit of an approved program of education during a period or periods preceding the one-year period ending on the date on which the individual's application under that section is received by the Secretary; and

"(C) would, without regard to this subsection, have been entitled to such educational assistance for pursuit of such approved program of education if the individual had submitted such application on the effective date from which the Secretary determined that the individual was eligible for such educational assistance."

(b) STYLISTIC AMENDMENT.—Subsection (c) of that section, as redesignated by subsection (a)(2) of this section, is amended by striking "of this section".

(c) APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to applications first made under section 3513 of title 38, United States Code, that—

(1) are received by the Secretary of Veterans Affairs on or after the date of the enactment of this Act; or

(2) as of that date are pending with the Secretary or exhaustion of available administrative and judicial remedies.

Subtitle C—Housing Matters

SEC. 121. ELIMINATION OF REDUCTION IN ASSISTANCE FOR SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS FOR VETERANS HAVING JOINT OWNERSHIP OF HOUSING UNITS.

Section 2102 is amended by adding at the end the following new subsection:

“(c) The amount of assistance afforded under subsection (a) for a veteran authorized assistance by section 2101(a) of this title shall not be reduced by reason that title to the housing unit, which is vested in the veteran, is also vested in any other person, if the veteran resides in the housing unit.”.

SEC. 122. INCREASE IN MAXIMUM AMOUNT OF HOUSING LOAN GUARANTEE.

(a) **IN GENERAL.**—Subparagraph (A)(i)(IV) of section 3703(a)(1) is amended by striking “\$50,750” and inserting “\$63,175”.

(b) **CONFORMING AMENDMENT.**—Subparagraph (B) of that section is amended by striking “\$50,750” and inserting “\$63,175”.

SEC. 123. TERMINATION OF COLLECTION OF LOAN FEES FROM VETERANS RATED ELIGIBLE FOR COMPENSATION AT PRE-DISCHARGE RATING EXAMINATIONS.

Section 3729(c) is amended—

(1) by inserting “(1)” before “A fee”; and

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

“(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.”.

Subtitle D—Insurance Matters

SEC. 131. PREMIUMS FOR TERM SERVICE DISABLED VETERANS’ INSURANCE FOR VETERANS OLDER THAN AGE 70.

Section 1922 is amended by adding at the end the following new subsection:

“(c) The premium rate of any term insurance issued under this section shall not exceed the renewal age 70 premium rate.”.

SEC. 132. INCREASE IN AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEMBERS’ GROUP LIFE INSURANCE AND VETERANS’ GROUP LIFE INSURANCE.

(a) **MAXIMUM UNDER SERVICEMEMBERS’ GROUP LIFE INSURANCE.**—Section 1967 is amended in subsections (a), (c), and (d) by striking “\$200,000” each place it appears and inserting “\$250,000”.

(b) **MAXIMUM UNDER VETERANS’ GROUP LIFE INSURANCE.**—Section 1977(a) is amended by striking “\$200,000” each place it appears and inserting “\$250,000”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

SEC. 133. FAMILY COVERAGE UNDER SERVICEMEMBERS’ GROUP LIFE INSURANCE.

(a) **INSURABLE DEPENDENTS.**—Section 1965 is amended by adding at the end the following:

“(10) The term ‘insurable dependent’, with respect to a member, means the following:

“(A) The member’s spouse.

“(B) A child of the member for so long as the child is unmarried and the member is providing over 50 percent of the support of the child.”.

(b) **INSURANCE COVERAGE.**—(1) Subchapter III of chapter 19 is amended by inserting after section 1967 the following new section:

“§ 1967A. Insurance of dependents

“(a) Subject to the provisions of this section, any policy of insurance purchased by the Secretary under section 1966 of this title shall also automatically insure against death each insurable dependent of a member.

“(b)(1) A member insurable under this subchapter may make an election not to insure a spouse under this subchapter.

“(2) Except as provided in subsection (c)(3), a spouse covered by an election under paragraph (1) is not insured under this section.

“(3) Except as otherwise provided under this section, no insurable dependent of a member is insured under this section unless the member is insured under this subchapter.

“(c)(1) Subject to an election under paragraph (2), the amount for which a person insured under this section is insured under this subchapter is as follows:

“(A) In the case of a member’s spouse, the lesser of—

“(i) the amount for which the member is insured under this subchapter;

or

“(ii) \$50,000.

“(B) In the case of a member’s child, \$5,000.

“(2) A member may elect in writing to insure the member’s spouse in an amount less than the amount provided for under paragraph (1)(A). The amount of insurance so elected shall be evenly divisible by \$10,000.

“(3) If a spouse eligible for insurance under this section is not so insured, or is insured for less than the maximum amount provided for under subparagraph (A) of paragraph (1) by reason of an election made by the member concerned under paragraph (2), the spouse may thereafter be insured under this section in the maximum amount or any lesser amount elected as provided for in paragraph (2) upon written application by the member, proof of good health of the spouse, and compliance with such other terms and conditions as may be prescribed by the Secretary.

“(d)(1) Insurance coverage under this section with respect to an insurable dependent of the member shall cease—

“(A) upon election made in writing by the member to terminate the coverage;

or

“(B) the date that is 120 days after the earlier of—

“(i) the date of the member’s death;

“(ii) the date of termination of the insurance on the member under this subchapter; or

“(iii) the date on which the insurable dependent of the member no longer meets the criteria applicable to an insurable dependent as specified in section 1965(10) of this title.

“(2)(A) At the election of an insured spouse whose insurance under this subchapter is terminated under paragraph (1), the insurance shall be converted to an individual policy of insurance upon written application for conversion made to the participating company selected by the insured spouse and the payment of the required premiums.

“(B) The individual policy of insurance of an insured spouse making an election under subparagraph (A) shall become effective on the date of the termination of the spouse’s insurance under paragraph (1).

“(C) The second, fourth, and fifth sentences of section 1977(e) of this title shall apply with respect to the insurance of an insured spouse under this paragraph.

“(e)(1) During any period in which the spouse of a member is insured under this section, there shall be deducted each month from the member’s basic or other pay, or otherwise collected from the member, until the member’s separation or release from active duty an amount determined by the Secretary (which shall be the same for all such members) as the premium allocable to the pay period for providing that insurance coverage.

“(2)(A) The Secretary shall determine the premium amounts to be charged for insurance coverage for spouses of members under this section.

“(B) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

“(C) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary in advance of that policy year.

“(3) Any amounts deducted or collected under paragraph (1), together with the income derived from any dividends or premium rate adjustments received from insurers with respect to insurance under this section, shall be deposited to the credit of the revolving fund established by section 1969(d) of this title, and shall be available for payment and use in accordance with the provisions of that section.

“(f) Any amount of insurance in force on an insurable dependent of a member under this section on the date of the dependent’s death shall be paid, upon the establishment of a valid claim therefor, to the member or, in the event of the member’s death before payment to the member can be made, then to the person or persons entitled to receive payment of the proceeds of insurance on the member’s life under section 1970 of this title.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1967 the following new item:

“1967A. Insurance of dependents.”.

(c) EFFECTIVE DATE AND INITIAL IMPLEMENTATION.—(1) This section and the amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act, except that paragraph (2) shall take effect on the date of the enactment of this Act.

(2) The Secretary of Veterans Affairs, in consultation with the Secretaries of the military departments, the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Health and Human Services, shall take such action as is necessary to ensure that each member of the uniformed services on active duty (other

than active duty for training) during the period between the date of the enactment of this Act and the effective date under paragraph (1) is furnished an explanation of the insurance benefits available for dependents under the amendments made by this section and is afforded an opportunity before such effective date to make elections that are authorized under those amendments to be made with respect to dependents.

Subtitle E—Burial Matters

SEC. 141. ELIGIBILITY FOR INTERMENT IN THE NATIONAL CEMETERIES OF CERTAIN FILIPINO VETERANS OF WORLD WAR II.

(a) **ELIGIBILITY OF CERTAIN COMMONWEALTH ARMY VETERANS.**—Section 2402 is amended by adding at the end the following new paragraph:

“(8) Any individual whose service is described in section 107(a) of this title if such individual at the time of death—

“(A) was a naturalized citizen of the United States; and

“(B) resided in the United States.”.

(b) **CONFORMING AMENDMENT.**—Section 107(a)(3) is amended by striking the period at the end and inserting the following: “, and chapter 24 of this title to the extent provided for in section 2402(8) of this title.”.

(c) **APPLICABILITY.**—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to deaths occurring on or after that date.

Subtitle F—Employment Matters

SEC. 151. VETERANS EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS FOR RECENTLY SEPARATED VETERANS.

(a) **EMPLOYMENT EMPHASIS.**—Subsection (a) of section 4212 is amended in the first sentence by inserting “recently separated veterans,” after “veterans of the Vietnam era,”.

(b) **CONFORMING AMENDMENTS.**—Subsection (d)(1) of that section is amended by inserting “recently separated veterans,” after “veterans of the Vietnam era,” each place it appears in subparagraphs (A) and (B).

(c) **RECENTLY SEPARATED VETERAN DEFINED.**—Section 4211 is amended by adding at the end the following new paragraph:

“(6) The term ‘recently separated veteran’ means any veteran during the one-year period beginning on the date of such veteran’s discharge or release from active duty.”.

SEC. 152. COMPTROLLER GENERAL AUDIT OF VETERANS EMPLOYMENT AND TRAINING SERVICE OF THE DEPARTMENT OF LABOR.

(a) **REQUIREMENT.**—The Comptroller General of the United States shall carry out a comprehensive audit of the Veterans Employment and Training Service of the Department of Labor. The purpose of the audit is to provide a basis for future evaluations of the effectiveness of the Service in meeting its mission.

(b) **COMMENCEMENT DATE.**—The audit required by subsection (a) shall commence not earlier than January 1, 2001.

(c) **ELEMENTS.**—In carrying out the audit of the Veterans Employment and Training Service required by subsection (a), the Comptroller General shall—

(1) review the requirements applicable to the Service under law, including requirements under title 38, United States Code, and the regulations thereunder;

(2) evaluate the organizational structure of the Service; and

(3) evaluate or assess any other matter relating to the Service that the Comptroller General considers appropriate for the purpose specified in subsection (a).

(d) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the audit carried out under subsection (a). The report shall include—

(1) the results of the audit; and

(2) any recommendations that the Comptroller General considers appropriate regarding the organization or functions of the Veterans Employment and Training Service of the Department of Labor.

Subtitle G—Benefits for Children of Female Vietnam Veterans

SEC. 161. SHORT TITLE.

This subtitle may be cited as the “Children of Women Vietnam Veterans’ Benefits Act of 2000”.

SEC. 162. BENEFITS FOR THE CHILDREN OF FEMALE VIETNAM VETERANS WHO SUFFER FROM CERTAIN BIRTH DEFECTS.

(a) IN GENERAL.—Chapter 18 is amended by adding at the end the following new subchapter:

“SUBCHAPTER II—CHILDREN OF FEMALE VIETNAM VETERANS BORN WITH CERTAIN BIRTH DEFECTS

“§ 1811. Definitions

“In this subchapter:

“(1) The term ‘child’, with respect to a female Vietnam veteran, means a natural child of the female Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the female Vietnam veteran first entered the Republic of Vietnam during the Vietnam era (as specified in section 101(29)(A) of this title).

“(2) The term ‘covered birth defect’ means each birth defect identified by the Secretary under section 1812 of this title.

“(3) The term ‘female Vietnam veteran’ means any female individual who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era (as so specified), without regard to the characterization of the individual’s service.

“§ 1812. Birth defects covered

“(a) IDENTIFICATION.—Subject to subsection (b), the Secretary shall identify the birth defects of children of female Vietnam veterans that—

“(1) are associated with the service of female Vietnam veterans in the Republic of Vietnam during the Vietnam era (as specified in section 101(29)(A) of this title); and

“(2) result in the permanent physical or mental disability of such children.

“(b) LIMITATIONS.—(1) The birth defects identified under subsection (a) may not include birth defects resulting from the following:

“(A) A familial disorder.

“(B) A birth-related injury.

“(C) A fetal or neonatal infirmity with well-established causes.

“(2) The birth defects identified under subsection (a) may not include spina bifida.

“(c) LIST.—The Secretary shall prescribe in regulations a list of the birth defects identified under subsection (a).

“§ 1813. Benefits and assistance

“(a) HEALTH CARE.—(1) The Secretary shall provide a child of a female Vietnam veteran who was born with a covered birth defect such health care as the Secretary determines is needed by the child for such birth defect or any disability that is associated with such birth defect.

“(2) The Secretary may provide health care under this subsection directly or by contract or other arrangement with a health care provider.

“(3) For purposes of this subsection, the definitions in section 1803(c) of this title shall apply with respect to the provision of health care under this subsection, except that for such purposes—

“(A) the reference to ‘specialized spina bifida clinic’ in paragraph (2) of such section 1803(c) shall be treated as a reference to a specialized clinic treating the birth defect concerned under this subsection; and

“(B) the reference to ‘vocational training under section 1804 of this title’ in paragraph (8) of such section 1803(c) shall be treated as a reference to vocational training under subsection (b).

“(b) VOCATIONAL TRAINING.—(1) The Secretary may provide a program of vocational training to a child of a female Vietnam veteran who was born with a covered birth defect if the Secretary determines that the achievement of a vocational goal by the child is reasonably feasible.

“(2) Subsections (b) through (e) of section 1804 of this title shall apply with respect to any program of vocational training provided under paragraph (1).

“(c) MONETARY ALLOWANCE.—(1) The Secretary shall pay a monthly allowance to any child of a female Vietnam veteran who was born with a covered birth defect for any disability resulting from such birth defect.

“(2) The amount of the monthly allowance paid under this subsection shall be based on the degree of disability suffered by the child concerned, as determined in accordance with a schedule for rating disabilities resulting from covered birth defects that is prescribed by the Secretary.

“(3) In prescribing a schedule for rating disabilities under paragraph (2), the Secretary shall establish four levels of disability upon which the amount of the monthly allowance under this subsection shall be based.

“(4) The amount of the monthly allowance paid under this subsection shall be as follows:

“(A) In the case of a child suffering from the lowest level of disability prescribed in the schedule for rating disabilities under this subsection, \$100.

“(B) In the case of a child suffering from the lower intermediate level of disability prescribed in the schedule for rating disabilities under this subsection, the greater of—

“(i) \$214; or

“(ii) the monthly amount payable under section 1805(b)(3) of this title for the lowest level of disability prescribed for purposes of that section.

“(C) In the case of a child suffering from the higher intermediate level of disability prescribed in the schedule for rating disabilities under this subsection, the greater of—

“(i) \$743; or

“(ii) the monthly amount payable under section 1805(b)(3) of this title for the intermediate level of disability prescribed for purposes of that section.

“(D) In the case of a child suffering from the highest level of disability prescribed in the schedule for rating disabilities under this subsection, the greater of—

“(i) \$1,272; or

“(ii) the monthly amount payable under section 1805(b)(3) of this title for the highest level of disability prescribed for purposes of that section.

“(5) Amounts under subparagraphs (A), (B)(i), (C)(i), and (D)(i) of paragraph (4) shall be subject to adjustment from time to time under section 5312 of this title.

“(6) Subsections (c) and (d) of section 1805 of this title shall apply with respect to any monthly allowance paid under this subsection.

“(d) GENERAL LIMITATIONS ON AVAILABILITY OF BENEFITS AND ASSISTANCE.—(1) No individual receiving benefits or assistance under this section may receive any benefits or assistance under subchapter I of this chapter.

“(2) In any case where affirmative evidence establishes that the covered birth defect of a child results from a cause other than the active military, naval, or air service in the Republic of Vietnam of the female Vietnam veteran who is the mother of the child, no benefits or assistance may be provided the child under this section.

“(e) REGULATIONS.—The Secretary shall prescribe regulations for purposes of the administration of the provisions of this section.”

(b) ADMINISTRATIVE PROVISIONS.—Chapter 18 is further amended by inserting after subchapter II, as added by subsection (a) of this section, the following new subchapter:

“SUBCHAPTER III—ADMINISTRATIVE MATTERS

“§ 1821. Applicability of certain administrative provisions

“The provisions of sections 5101(c), 5110(a), (b)(2), (g), and (i), 5111, and 5112(a), (b)(1), (b)(6), (b)(9), and (b)(10) of this title shall apply with respect to benefits and assistance under this chapter in the same manner as such provisions apply to veterans’ disability compensation.

“§ 1822. Treatment of receipt of monetary allowance on other benefits

“(a) Notwithstanding any other provision of law, receipt by an individual of a monetary allowance under this chapter shall not impair, infringe, or otherwise affect the right of the individual to receive any other benefit to which the individual is otherwise entitled under any law administered by the Secretary.

“(b) Notwithstanding any other provision of law, receipt by an individual of a monetary allowance under this chapter shall not impair, infringe, or otherwise affect the right of any other individual to receive any benefit to which such other individual is entitled under any law administered by the Secretary based on the relationship of such other individual to the individual who receives such monetary allowance.

“(c) Notwithstanding any other provision of law, a monetary allowance paid an individual under this chapter shall not be considered as income or resources in determining eligibility for or the amount of benefits under any Federal or Federally-assisted program.”

(c) REPEAL OF SUPERSEDED MATTER.—(1) Subsections (c) and (d) of section 1805 are repealed.

(2) Section 1806 is repealed.

(d) REDESIGNATION OF EXISTING MATTER.—Chapter 18 is further amended by inserting before section 1801 the following:

“SUBCHAPTER I—CHILDREN OF VIETNAM VETERANS BORN WITH SPINA BIFIDA”.

(e) CONFORMING AMENDMENTS.—(1) Sections 1801 and 1802 are each amended by striking “this chapter” and inserting “this subchapter”.

(2) Section 1805(a) is amended by striking “this chapter” and inserting “this section”.

(f) CLERICAL AMENDMENTS.—(1)(A) The chapter heading of chapter 18 is amended to read as follows:

“CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS”.

(1) The tables of chapters at beginning, and at the beginning of part II, are each amended by striking the item relating to chapter 18 and inserting the following new item:

“18. Benefits for Children of Vietnam Veterans 1801”.

(2) The table of sections at the beginning of chapter 18 is amended—
(A) by inserting after the chapter heading the following:

“SUBCHAPTER I—CHILDREN OF VIETNAM VETERANS BORN WITH SPINA BIFIDA”;

(B) by striking the item relating to section 1806; and

(C) by adding at the end the following:

“SUBCHAPTER II—CHILDREN OF FEMALE VIETNAM VETERANS BORN WITH CERTAIN BIRTH DEFECTS

“1811. Definitions.

“1812. Birth defects covered.

“1813. Benefits and assistance.

“SUBCHAPTER III—ADMINISTRATIVE MATTERS

“1821. Applicability of certain administrative provisions.

“1822. Treatment of receipt of monetary allowance on other benefits.”.

(g) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the first day of the first month beginning more than one year after the date of the enactment of this Act.

(2) The Secretary of Veterans Affairs shall identify birth defects under section 1822 of title 38, United States Code (as added by subsection (a) of this section), and shall prescribe the regulations required by subchapter II of that title (as so added), not later than the effective date specified in paragraph (1).

(3) No benefit or assistance may be provided under subchapter II of chapter 18 of title 38, United States Code (as so added), for any period before the effective date specified in paragraph (1) by reason of the amendments made by this section.

Subtitle H—Other Benefits Matters

SEC. 171. REVIEW OF DOSE RECONSTRUCTION PROGRAM OF THE DEFENSE THREAT REDUCTION AGENCY.

(a) REVIEW BY NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall enter into a contract with the National Academy of Sciences to carry out periodic reviews of the dose reconstruction program of the Defense Threat Reduction Agency.

(b) REVIEW ACTIVITIES.—The periodic reviews of the dose reconstruction program under the contract under subsection (a) shall consist of the periodic selection of random samples of doses reconstructed by the Defense Threat Reduction Agency in order to determine—

(1) whether or not the reconstruction of the sampled doses is accurate;

(2) whether or not the reconstructed dosage number is accurately reported;

(3) whether or not the assumptions made regarding radiation exposure based upon the sampled doses are credible; and

(4) whether or not the data from nuclear tests used by the Defense Threat Reduction Agency as part of the reconstruction of the sampled doses is accurate.

(c) DURATION OF REVIEW.—The periodic reviews under the contract under subsection (a) shall occur over a period of 24 months.

(d) REPORT.—(1) Not later than 60 days after the conclusion of the period referred to in subsection (c) the National Academy of Sciences shall submit to Congress a report on its activities under the contract under this section.

(2) The report shall include the following:

(A) A detailed description of the activities of the National Academy of Sciences under the contract.

(B) Any recommendations that the National Academy of Sciences considers appropriate regarding a permanent system of review of the dose reconstruction program of the Defense Threat Reduction Agency.

TITLE II—HEALTH CARE MATTERS

SEC. 201. VETERANS NOT SUBJECT TO COPAYMENTS FOR MEDICATIONS.

Subparagraph (B) of section 1722A(a)(3) is amended to read as follows:

“(B) to a veteran who is considered by the Secretary to be unable to defray the expenses of necessary care under section 1722 of this title.”.

SEC. 202. ESTABLISHMENT OF POSITION OF ADVISOR ON PHYSICIAN ASSISTANTS WITHIN OFFICE OF UNDERSECRETARY FOR HEALTH.

(a) ESTABLISHMENT.—Subsection (a) of section 7306 is amended—

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following new paragraph (9):

“(9) The Advisor on Physician Assistants, who shall carry out the responsibilities set forth in subsection (f).”.

(b) RESPONSIBILITIES.—That section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

“(f) The Advisor on Physician Assistants under subsection (a)(9) shall—

“(1) advise the Under Secretary for Health on matters regarding the optimal utilization of physician assistants by the Veterans Health Administration;

“(2) advise the Under Secretary for Health on the feasibility and desirability of establishing clinical privileges and practice areas for physician assistants in the Administration;

“(3) develop initiatives to facilitate the utilization of the full range of clinical capabilities of the physician assistants employed by the Administration;

“(4) provide advice on policies affecting the employment of physician assistants by the Administration, including policies on educational requirements, national certification, recruitment and retention, staff development, and the availability of educational assistance (including scholarship, tuition reimbursement, and loan repayment assistance); and

“(5) carry out such other responsibilities as the Under Secretary for Health shall specify.”.

SEC. 203. TEMPORARY FULL-TIME APPOINTMENTS OF CERTAIN MEDICAL PERSONNEL.

(a) PHYSICIAN ASSISTANTS AWAITING CERTIFICATION OR LICENSURE.—Paragraph (2) of section 7405(c) is amended—

(1) by striking “nursing,” and inserting “nursing”; and

(2) by inserting “who have successfully completed a full course of training as a physician assistant in a recognized school approved by the Secretary,” before “or who”.

(b) MEDICAL SUPPORT PERSONNEL.—That section is further amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

“(3)(A) Temporary full-time appointments of persons in positions referred to in subsection (a)(1)(D) shall not exceed three years.

“(B) Temporary full-time appointments under this paragraph may be renewed for one or more additional periods not in excess of three years each.”.

TITLE III—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Construction Matters

SEC. 301. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS FOR FISCAL YEAR 2001.

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

(1) Construction of a 120-bed gero-psychiatric facility at the Department of Veterans Affairs Palo Alto Health Care System, Menlo Park Division, California, \$26,600,000.

(2) Construction of a nursing home at the Department of Veterans Affairs Medical Center, Beckley, West Virginia, \$9,500,000.

SEC. 302. AUTHORIZATION OF ADDITIONAL MAJOR MEDICAL FACILITY PROJECT FOR FISCAL YEAR 2000.

Section 401 of the Veterans Millennium Health Care and Benefits Act (Public Law 106-117; 113 Stat. 1572) is amended by adding at the end the following:

“(7) Renovation of psychiatric nursing units at the Department of Veterans Affairs Medical Center, Murfreesboro, Tennessee, in an amount not to exceed \$14,000,000.”.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) **AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2001 PROJECTS.**—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2001 and for fiscal year 2002, \$36,100,000 for the Construction, Major Projects, account for the projects authorized in section 301.

(b) **AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL FISCAL YEAR 2000 PROJECT.**—Section 403 of the Veterans Millennium Health Care and Benefits Act (Public Law 106-117; 113 Stat. 1573) is amended—

(1) in subsection (a)(1), by striking “\$57,500,000 for the projects authorized in paragraphs (1) through (5)” and inserting “\$71,500,000 for the projects authorized in paragraphs (1) through (5) and (7)”; and

(2) in subsection (b), by inserting “and (7)” after “through (5)” in the matter preceding paragraph (1).

(c) **LIMITATION.**—The projects authorized in section 301 may only be carried out using—

(1) funds appropriated for fiscal year 2001 or fiscal year 2002 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 2001 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 2001 for a category of activity not specific to a project.

Subtitle B—Other Matters**SEC. 311. MAXIMUM TERM OF LEASE OF DEPARTMENT OF VETERANS AFFAIRS PROPERTY FOR HOMELESS PURPOSES.**

Section 3735(a)(4) is amended by striking “three years” and inserting “20 years”.

SEC. 312. LAND CONVEYANCE, MILES CITY VETERANS ADMINISTRATION MEDICAL COMPLEX, MILES CITY, MONTANA.

(a) **CONVEYANCE REQUIRED.**—The Secretary of Veterans Affairs shall convey, without consideration, to Custer County, Montana (in this section referred to as the “County”), all right, title, and interest of the United States in and to the parcels of real property consisting of the Miles City Veterans Administration Medical Center complex, which has served as a medical and support complex for the Department of Veterans Affairs in Miles City, Montana.

(b) **TIMING OF CONVEYANCE.**—The conveyance required by subsection (a) shall be made as soon as practicable after the date of the enactment of this Act.

(c) **CONDITIONS OF CONVEYANCE.**—The conveyance required by subsection (a) shall be subject to the condition that the County—

(1) use the parcels conveyed, whether directly or through an agreement with a public or private entity, for veterans activities, community and economic development, or such other public purposes as the County considers appropriate; or

(2) convey the parcels to an appropriate public or private entity for use for the purposes specified in paragraph (1).

(d) **CONVEYANCE OF IMPROVEMENTS.**—(1) As part of the conveyance required by subsection (a), the Secretary may also convey to the County any improvements, equipment, fixtures, and other personal property located on the parcels conveyed under that subsection that are not required by the Secretary.

(2) Any conveyance under this subsection shall be without consideration.

(e) **USE PENDING CONVEYANCE.**—Until such time as the real property to be conveyed under subsection (a) is conveyed by deed under this section, the Secretary may continue to lease the real property, together with any improvements thereon, under the terms and conditions of the current lease of the real property.

(f) **MAINTENANCE PENDING CONVEYANCE.**—The Secretary shall be responsible for maintaining the real property to be conveyed under subsection (a), and any improvements, equipment, fixtures, and other personal property to be conveyed under subsection (d), in its condition as of the date of the enactment of this Act until such time as the real property, and such improvements, equipment, fixtures, and other personal property are conveyed by deed under this section.

(g) **LEGAL DESCRIPTION.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(h) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 313. CONVEYANCE OF FT. LYON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, COLORADO, TO THE STATE OF COLORADO.

(a) **CONVEYANCE AUTHORIZED.**—Notwithstanding any other provision of law and subject to the provisions of this section, the Secretary of Veterans Affairs may convey, without consideration, to the State of Colorado all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 512 acres and comprising the location of the Ft. Lyon Department of Veterans Affairs Medical Center. The purpose of the conveyance is to permit the State of Colorado to utilize the property for purposes of a correctional facility.

(b) **PUBLIC ACCESS.**—(1) The Secretary may not make the conveyance of real property authorized by subsection (a) unless the State of Colorado agrees to provide appropriate public access to Kit Carson Chapel, which is located on the real property, and the cemetery located adjacent to the real property.

(2) The State of Colorado may satisfy the condition specified in paragraph (1) with respect to Kit Carson Chapel by relocating the chapel to Fort Lyon National Cemetery, Colorado, or another appropriate location approved by the Secretary.

(c) **PLAN REGARDING CONVEYANCE.**—(1) The Secretary may not make the conveyance authorized by subsection (a) before the date on which the Secretary implements a plan providing the following:

(A) Notwithstanding sections 1720(a)(3) and 1741 of title 38, United States Code, that veterans who are receiving inpatient or institutional long-term care at Ft. Lyon Department of Veterans Affairs Medical Center as of the date of the enactment of this Act are provided appropriate inpatient or institutional long-term care under the same terms and conditions as such veterans are receiving inpatient or institutional long-term care as of that date.

(B) That the conveyance of the Ft. Lyon Department of Veterans Affairs Medical Center does not result in a reduction of health care services available to veterans in the catchment area of the Medical Center.

(C) Improvements in veterans' overall access to health care in the catchment area through, for example, the opening of additional outpatient clinics.

(2) The Secretary shall prepare the plan referred to in paragraph (1) in consultation with appropriate representatives of veterans service organizations and other appropriate organizations.

(3) The Secretary shall publish a copy of the plan referred to in paragraph (1) before implementation of the plan.

(d) **ENVIRONMENTAL RESTORATION.**—The Secretary may not make the conveyance authorized by subsection (a) until the Secretary completes the evaluation and performance of any environmental restoration activities required by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and by any other provision of law.

(e) **PERSONAL PROPERTY.**—As part of the conveyance authorized by subsection (a), the Secretary may convey, without consideration, to the State of Colorado any furniture, fixtures, equipment, and other personal property associated with the property conveyed under that subsection that the Secretary determines is not required for purposes of the Department of Veterans Affairs health care facilities to be established by the Secretary in southern Colorado or for purposes of Fort Lyon National Cemetery.

(f) **LEGAL DESCRIPTION.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. Any costs associated with the survey shall be borne by the State of Colorado.

(g) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such other terms and conditions in connection with the conveyances authorized by subsections (a) and (e) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 314. EFFECT OF CLOSURE OF FT. LYON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER ON ADMINISTRATION OF HEALTH CARE FOR VETERANS.

(a) **PAYMENT FOR NURSING HOME CARE.**—Notwithstanding any limitation under section 1720 or 1741 of title 38, United States Code, the Secretary of Veterans Affairs may pay the State of Colorado, or any private nursing home care facility, for costs incurred in providing nursing home care to any veteran who is relocated from the Ft. Lyon Department of Veterans Affairs Medical Center, Colorado, to the State of Colorado or such private facility, as the case may be, as a result of the closure of the Ft. Lyon Department of Veterans Affairs Medical Center.

(b) **OBLIGATION TO PROVIDE EXTENDED CARE SERVICES.**—Nothing in section 313 of this Act or this section may be construed to alter or otherwise effect the obligation of the Secretary to meet the requirements of section 1710B(b) of title 38, United

States Code, relating to staffing and levels of extended care services in fiscal years after fiscal year 1998.

(c) EXTENSION OF VOLUNTARY EARLY RETIREMENT AUTHORITY.—Notwithstanding section 1109(a) of the Department of Veterans Affairs Employment Reduction Assistance Act of 1999 (title XI of Public Law 106–117; 113 Stat. 1599; 5 U.S.C. 5597 note), the authority to pay voluntary separation incentive payments under that Act to employees of the Ft. Lyon Department of Veterans Affairs Medical Center shall apply to eligible employees (as defined by section 1110 of that Act) at the Ft. Lyon Department of Veterans Affairs Medical Center whose separation occurs before June 30, 2001.

(d) REPORT ON VETERANS HEALTH CARE IN SOUTHERN COLORADO.—Not later than one year after the conveyance, if any, authorized by section 313, the Under Secretary for Health of the Department of Veterans Affairs, acting through the Director of Veterans Integrated Service Network (VISN) 19, shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the status of the health care system for veterans under the Network in the Southern Colorado. The report shall describe any improvements to the system in Southern Colorado that have been put into effect in the period beginning on the date of the conveyance and ending on the date of the report.

Amend the title to read as follows: "A Bill to amend title 38, United States Code, to expand and improve compensation and pension, education, housing loan, insurance, and other benefits for veterans, and for other purposes."

INTRODUCTION

On October 27, 1999, Committee member Senator Patty Murray introduced S. 1810, the proposed "Veterans Claims and Appeals Procedures Clarification and Improvement Act of 2000." S. 1810, as introduced, would have clarified the role of the Department of Veterans Affairs (hereinafter, "VA") in assisting veterans and other claimants in developing the factual record pertinent to VA's adjudication of the claim. In addition, S. 1810, as introduced, would have specified that procedures for hearings, investigations and other proceedings in connection with the consideration of claims for VA benefits shall be exclusive; would have precluded the U.S. Court of Appeals for Veterans Claims (hereinafter, "CAVC"), in the exercise of its exclusive jurisdiction to review decisions of the VA's Board of Veterans' Appeals (hereinafter, "BVA"), from considering allegations of error raised by VA that were not raised by the appellant or the CAVC; and would have amended the standard under which CAVC might set aside BVA findings of fact, modifying it from a "clearly erroneous" standard to a "not reasonably supported by a preponderance of the evidence" standard.

On March 21, 2000, the Committee's ranking minority member, Senator John D. Rockefeller IV, introduced S. 2264, the proposed "Recognition of Physician Assistants in the Department of Veterans Affairs Act of 2000." S. 2264 would have established within the VA's Veterans Health Administration (hereinafter, "VHA") the position of Advisor on Physician Assistants.

On May 11, 2000, Ranking Minority Member Rockefeller introduced S. 2544, the proposed "Children of Women Vietnam Veterans' Benefits Act of 2000." S. 2544 would have provided health care, vocational training, and monetary allowance benefits to children with covered birth defects born to women Vietnam veterans.

On May 25, 2000, Senator Max Baucus introduced S. 2637, a bill to require VA to convey land in Miles City, MT, to Custer County, MT. On June 29, 2000, Senator Wayne Allard introduced S. 2827, a bill to authorize VA to convey land in Ft. Lyon, CO, to the State of Colorado, subject to, among other things, conditions relating to the continued provision of long-term and extended care medical

services provided by VA at that site, and subject to requirements relating to the retirement rights of VA personnel employed at that site.

COMMITTEE HEARING

On July 20, 2000, the Committee held a hearing on legislation pending before the Committee. Among the measures on which the Committee received testimony was S. 1810 and alternative language, as set forth in a draft bill proposed by Committee Chairman Arlen Specter, to clarify VA's duty to assist claimants; S. 2264; S. 2544, and alternative language, as set forth in a draft bill proposed by Committee Chairman Specter, which would have provided health care, vocational training, and monetary allowance benefits to children with covered birth defects born to women Vietnam veterans; S. 2637; S. 2827; modifications to VA education, home loan, life insurance, burial benefit, and employment assistance programs, as specified in a draft bill proposed by Committee Chairman Specter; provisions relating to veteran-patients' copayments for prescription medications and the appointment of physician assistants as specified in a draft bill proposed by Committee Chairman Specter; a proposed modification in the maximum term for which VA might lease acquired real property to providers of housing assistance services to homeless veterans, and authorizations for major medical construction projects at Murfreesboro, TN, and Menlo Park, CA, as specified in a draft bill proposed by Committee Chairman Specter; provisions relating to compensation to women veterans who have suffered the anatomical loss of a breast as a result of a service-connected disability, as specified in a draft bill proposed by Committee Chairman Specter; and provisions modifying section 106 of Public Law 102-585 relating to limitations on medical care services which may be provided to women veterans, as specified in a draft bill proposed by Committee Chairman Specter.

The Committee received testimony from, among others, representatives of VA and representatives of The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, and the Paralyzed Veterans of America. The Committee also received written statements for the record from the Vietnam Veterans of America; the Veterans Affairs Physician Assistants Association; and the American Academy of Physician Assistants.

COMMITTEE MEETING

On July 27, 2000, the Committee met in open session to consider legislation pending before the Committee. Among the measures so considered was S. 1810, as amended to incorporate a substitute which set forth language relating to VA's duty to assist claimants which was drawn from draft bill language which had been proposed by Committee Chairman Specter and which had been on the agenda of the Committee's July 20, 2000, hearing. Also incorporated into the substitute were other items that had been on the Committee's July 20, 2000, hearing agenda, including: S. 2264 (relating to the establishment of the position of Advisor on Physician Assistants); S. 2544 (relating to benefits to children with covered birth defects born to women Vietnam veterans); provisions drawn from S. 2637 (relating to the conveyance of land in Miles City, MT, to

Custer County, MT); provisions drawn from S. 2827 (relating to the conveyance of land in Ft. Lyon, CO, to the State of Colorado); and provisions drawn from draft bills proposed by Committee Chairman Specter relating to modifications to VA education, home loan, life insurance, burial benefit, and employment assistance programs; provisions relating to prescription medication copayments, physician assistant appointments, VA leases of acquired real property to providers of services to homeless veterans, and construction authorizations; and provisions relating to compensation for women veterans for the service-connected loss of a breast. The Committee voted by unanimous voice vote to report S. 1810 favorably to the Senate, as so amended and as further amended to incorporate an amendment offered by Committee member Senator Paul Wellstone at the Committee meeting relating to diseases deemed to be presumptively service-connected when contracted by radiation-exposed veterans.

SUMMARY OF THE COMMITTEE BILL AS REPORTED

S. 1810, as reported (hereinafter, the “Committee bill”) contains three titles that would modify current benefits and health care programs administered by VA, and which relate to VA construction and facilities management issues, as summarized below.

TITLE I—BENEFITS MATTERS

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

1. Codify VA’s duty to assist veterans and other claimants in developing the factual record pertinent to VA’s adjudication of the veteran’s or other claimant’s claim (section 101).

2. Add lung cancer, colon cancer, tumors of the brain and central nervous system, and ovarian cancer to the statutory listing of diseases that are presumptively service-connected if they are contracted by a veteran exposed to radiation in service (section 102).

3. Provide special monthly compensation to women veterans who have sustained the service-connected loss of a breast (section 103).

4. Establish uniform eligibility requirements relating to the receipt of a high school diploma or equivalency certificate by participants in VA educational assistance programs (section 111).

5. Repeal a limitation on eligibility for educational assistance which permits participation only after the completion of an “initial” obligated term of service (section 112).

6. Allow survivors and dependents to use eligibility for educational assistance benefits to pursue test preparation courses (section 113).

7. Expand the time within which survivors and dependents may claim educational benefits (section 114).

8. Modify the effective date for survivors’ and dependents’ eligibility for educational benefits (section 115).

9. Specify that specially adapted housing grants will not be reduced merely because the home to be adapted is co-owned by a person other than the veteran who is entitled to the grant (section 121).

10. Increase the maximum VA home loan guaranty (from \$50,750 to \$63,175) (section 115).

11. Eliminate home loan fees to veterans rated eligible for compensation at pre-discharge medical examinations (section 122).

12. Cap term Service-Disabled Veterans Insurance premiums at the age 70 renewable level (section 131).

13. Increase maximum Servicemembers Group Life Insurance coverage (from \$200,000 to \$250,000)(section 132).

14. Authorize participation of the dependants of servicemembers in the Servicemembers Group Life Insurance program (section 133).

15. Make certain Filipino veterans of World War II eligible for burial benefits (section 141).

16. Require that the veterans employment emphasis programs of Federal contractors be extended to recently separated veterans (section 151).

17. Require the Comptroller General of the United States to conduct an audit of the Veterans' Employment and Training Service, U.S. Department of Labor (section 152).

18. Provide health care benefits, vocational training services, and monetary allowances to children with birth defects born to women Vietnam veterans (section 162).

19. Require the National Academy of Sciences to conduct a review of the Department of Defense's methodology for estimating the doses of radiation to which certain veterans had been exposed (section 171).

TITLE II—HEALTH CARE MATTERS

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

1. Waive the requirement that certain veterans who qualify for priority access to VA health care services on the basis of income make copayments for prescription medications (section 201).

2. Establish the position of Advisor on Physician Assistants in VHA (section 202).

3. Authorize temporary appointments of physician assistants (section 203).

TITLE III—CONSTRUCTION AND FACILITIES MATTERS

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

1. Authorize major medical construction projects (sections 301–303).

2. Extend the maximum term of leases (from 3 to 20 years) for which VA may lease acquired property to providers of services to homeless veterans (section 311).

3. Convey land in Miles City, MT, to Custer County, MT (section 312).

4. Convey land in Ft. Lyons, CO, to the State of Colorado (section 313–314).

DISCUSSION

TITLE I—BENEFITS MATTERS

Subtitle A—Compensation and Pension Matters

*Duty to assist**Background*

Chapter 51, Subchapter I, of title 38, United States Code, sets out the administrative procedures which must be followed by claimants applying for benefits under title 38. Claimants are expected to fill out appropriate claim forms and supply necessary information to expedite the processing of claims by VA. Subchapter I also lists the responsibilities of VA to provide certain types of assistance to claimants. VA must provide appropriate application forms, notify claimants when they have submitted incomplete applications, provide timely decisions to claimants, and provide assistance to claimants in gathering evidence to substantiate their eligibility for benefits. With respect to this latter requirement that VA provide assistance to claimants, section 5107(a) of title 38, United States Code, states as follows:

[A] person who submits a claim for benefits under a law administered by the Secretary shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Secretary shall assist such a claimant in developing the facts pertinent to the claim.

This provision—the principles of which had been specified by VA regulation prior to codification in the Veterans' Judicial Review Act of 1988, Public Law 100-687—was enacted to reflect the long-standing VA policy of assisting veterans and other claimants in gathering evidence in support of their claims.

The “well groundedness” and “duty to assist” concepts, when they were codified, had meaning in prior VA regulations and practice. As a consequence of that fact, they were applied by VA, after codification, in a manner that was consistent with past practice, rather than in a manner which might have better conformed to CAVC's later interpretation of the strict terms of the statute. As in the past, VA continued to assist veterans and claimants by gathering military service records, VA and private medical records, other relevant private and governmental evidence, and, when appropriate, by providing medical examinations. But VA did not, as a threshold matter, require that claimants submit evidence necessary to establish “well groundedness” before it would render such assistance.

A series of CAVC rulings during the 1990's construed the “well groundedness” and “duty to assist” concepts, and explored two major issues: what evidence would be required for a claimant to satisfy the requirement that he or she submit a “well-grounded” claim; and in what sequence would the claimant's obligation to submit a well-grounded claim and VA's “duty to assist” the claimant in developing the facts pertinent to the claim be discharged. The evolution of CAVC case law on both issues is summarized below *seriatim*:

- In *Gilbert v. Derwinski*, 1 Vet.App. 49 (1990), the Court held that the provisions of section 5107(a) established “chronological obligations” in the VA claims process and that, accordingly, the obli-

gation rests with the claimant to submit a well-grounded or “facially valid” claim before VA becomes obligated to assist the claimant.

- In *Murphy v. Derwinski*, 1 Vet.App. 78, 81 (1990), the Court noted that “[b]ecause a well grounded claim is neither defined by the statute nor the legislative history, it must be given a common sense construction. A well grounded claim is a plausible claim, one which is meritorious on its own or capable of substantiation. Such a claim need not be conclusive but only possible” See also *White v. Derwinski*, 1 Vet.App. 519, 521 (1991) (the well-grounded threshold is “rather low,” and is “the only requirement needed to obtain the Secretary’s assistance”); *Tirpak v. Derwinski*, 2 Vet.App. 609, 610 (1992) (the evidence required to make a claim well grounded need not be conclusive; however, the law “requires more than just an allegation; a claimant must submit supporting evidence” that a claim is plausible); *King v. Brown*, 5 Vet.App. 19 (1993) (a well-grounded claim is one that would meet the “well-pleaded” requirement applicable to civil actions under Rule 8(a)(2) of the Federal Rules of Civil Procedure); and *Grottveit v. Brown*, 5 Vet.App. 91, 93 (1993) (in cases where a claimant seeks benefits rooted in a medical condition claimed to be service related, a well-grounded claim is one that is supported by medical evidence submitted by the claimant).

- In *Grivois v. Brown*, 6 Vet.App. 136 (1994), the Court admonished VA for developing claims that had not initially met a “well groundedness” threshold. The Court stated that, under Gilbert, supra, it is VA’s “duty to avoid adjudicating implausible claims at the expense of delaying well-grounded ones.” (Despite *Grivois*, VA issued policy directives ordering VA regional offices to develop all evidence pertinent to a claim before making a determination of “well groundedness.”)

- In *Caluza v. Brown*, 7 Vet.App. 498, 506 (1995), the Court identified the following requirements which would, in the Court’s view, be necessary to establish a well-grounded claim: (1) a medical diagnosis of a current disability; (2) medical or lay evidence of the inservice occurrence or aggravation of a disease or injury; and (3) medical evidence of a nexus or link between an inservice injury or disease and the current disability. The U.S. Court of Appeals for the Federal Circuit affirmed *Caluza* in *Epps v. Gober*, 126 F.3d 1464 (Fed. Cir. 1997).

- Finally, in *Morton v. West*, 12 Vet.App. 477 (1999), CAVC held that VA does not have discretion to adopt policies to assist claimants prior to the submission of a well-grounded claim under the test set forth in *Caluza*, and invalidated the policies adopted by VA after *Grivois*.

As a consequence of *Morton*, VA now has directed regional offices to subject all claims to an initial review to determine whether they are well grounded before proceeding (if the claim is well grounded) to assist the claimant in fully developing the claim. If the claim is not “well grounded” and the claimant fails to make it “well grounded” after notice to that effect, VA will deny the claim.

Committee Bill

Morton and its predecessors have significantly altered the type—and the timing—of assistance which VA had traditionally provided

to veterans and other claimants seeking VA benefits. Irrespective of—and prior to—the Court’s interpretation of the language of section 5107, VA had traditionally assisted claimants “up front.” In *Morton*, the Court ruled that VA is not free to do so—although the Court did note in *Morton* that Congress could specify a different rule by statute. The Committee here chooses to do so. The Committee bill, in summary, modifies the pertinent statutes to reinstate VA’s traditional practice of assisting veterans at the beginning of the claims process. In doing so, the Committee concludes that the concept of “well groundedness” has no further practical utility, and so it has eliminated the term from pertinent statutes. The Committee also takes this opportunity to clarify other legal issues related to the concept of VA’s “duty to assist” claimants.

Section 101(a) of the Committee bill would add a new section 5101 to title 38, United States Code, to define the term “claimant.” The purpose of this provision is to ensure that VA assists all persons—including nonveterans, *e.g.*, survivors, who might be eligible for VA benefits, and persons claiming to be veterans but who may have not yet proven that they are, in fact, veterans—at the beginning of the claims process.

Section 101(b) of the Committee bill would substitute the term “information” in place of the term “evidence” in section 5103(a) of title 38. The purpose of this provision is to clarify that claimants will not be obligated to present any evidence *per se* upon initial application for benefits. What will be required is for them to completely and accurately provide the data requested in VA’s application for benefits, omitting none of the pertinent “information” requested in that form. It is the Committee’s understanding that such “information” consists of items readily in the possession of most claimants, *e.g.*, residence address, income information, marital status, etc. Claimants would be under no obligation to submit medical or lay evidence upon initial application for benefits, although it would always be to a claimant’s advantage to do so if such information is in his or her possession.

Section 101(c) of the Committee bill would create a new section 5103A of title 38 to clarify (1) the assistance and notifications that VA must provide to claimants who apply for all VA benefits; and (2) the assistance and notifications that VA will provide, more specifically, to claimants who apply for disability compensation.

Subsection (a) of the proposed section 5103A would require VA to make reasonable efforts to assist a claimant in the development of information and medical or lay evidence necessary to establish eligibility for benefits sought by the claimant. The purpose of this subsection is to reaffirm VA’s “duty to assist” claimants in the development of evidence; claimants would be entitled to such assistance as a matter of right. And such assistance would no longer be contingent upon the claimant first submitting a “well-grounded” claim.

The Committee recognizes that VA administers a wide variety of benefits and that, in many cases, there may be no need for VA to gather “medical or lay evidence.” The Committee believes that its use of the term “necessary” in subsection (a) gives to VA the necessary latitude to determine the appropriate evidence to develop. On the other hand, VA discretion is not unlimited; the Committee expects that “reasonable efforts” will be made by VA to assist

claimants and that those efforts will not be perfunctory. At the same time, the Committee understands that a point may be reached where the search for evidence becomes futile. In such cases, VA assistance in the further pursuit of information or evidence would no longer be “reasonable.”

Subsection (b) of the proposed 5103A would permit VA to withhold assistance to claimants if VA determines that no reasonable possibility exists that such assistance would aid in the establishing eligibility for the benefit sought. The Committee understands that there will be some claims that clearly lack merit due to statutory bars precluding entitlement or other reasons, *e.g.*, in a case where a veteran served in peacetime, he or she would lack statutory eligibility for pension benefits.

Subsection (c) of the proposed 5103A would require the VA to notify claimants and their representatives, if any, of the information and medical or lay evidence needed to aid in establishing eligibility for benefits. It would also require VA to notify claimants when it is unable to obtain any such information or medical or lay evidence. While it is the VA’s duty to obtain information and evidence, the Committee expects that claimants who are made aware of what is needed—or what cannot be found—will cooperate with VA to locate and obtain the required evidence if they are able to do so.

Subsection (d) of the proposed 5103A would specify the assistance that VA will render when a claimant seeks disability compensation. Paragraph (A) of subsection (d)(1) would direct VA to obtain relevant service and medical records from applicable governmental entities, *e.g.*, the Department of the Army. Paragraph (B) would direct VA to obtain records of relevant medical treatment provided by VA (or at VA’s expense) if the claimant has submitted to VA sufficient information to assist VA in locating such records. Paragraph (C) would direct VA to obtain all other relevant records from other governmental entities, provided that the claimant adequately identifies such records. Paragraph (D) would direct VA to obtain private records that the claimant has adequately identified. Paragraph (E) would direct VA to provide a medical examination for the purposes of determining the existence of a current disability if the claimant submits evidence that he or she is unable to afford medical treatment. Finally, paragraph (F) would permit the VA to provide such other assistance as it deems appropriate. Subsection (d)(2) would require VA to continue its efforts to obtain records, as required under this subsection, until it is reasonably certain that such records do not exist.

The above delineation of VA—and claimant—obligations captures the Committee’s understanding of the assistance VA had, prior to *Morton*, historically provided to claimants seeking disability compensation. On the subject of record retrieval, the Committee notes that a different level of effort will be expected when VA is obtaining records in the government’s, as opposed to a private entity’s, possession. While efforts to obtain evidence may never be minimal or perfunctory, a special obligation is imposed on VA when a governmental entity is the possessor of evidence.

Subsection (e) of the proposed 5103A would require VA to provide a medical examination when VA determines that a medical examination is necessary to substantiate entitlement to a benefit. A determination as to the necessity of an examination would be made

by VA after review of all or, if sufficient, some of the evidence obtained as a consequence of VA's execution of subsection (d). It is the Committee's intention that if VA were about to deny a claim because of the lack of evidence that would be generated by a medical examination, VA would in such circumstances provide the veteran with such an examination.

Subsection (f) of the proposed 5103A would authorize the Secretary to prescribe regulations to administer the provisions of proposed 5103A.

Section 101(d) of the Committee bill would amend section 5106 of title 38, United States Code, by specifying that costs associated with providing VA-requested information from other governmental entities will be borne by the governmental entity providing such information.

Section 101(e) of the Committee bill would amend section 5107 of title 38, United States Code, to eliminate the requirement that claimants submit evidence sufficient to justify the belief that his or her claim is "well grounded" before VA will execute its duty to assist. Since the assistance to be provided by VA would be delineated in the proposed section 5103A, reference to VA's "duty to assist" claimants would also be eliminated from section 5107. Section 5107(a), as amended, would specify that the burden of proof to establish entitlement to VA benefits remains with the claimant; the Committee notes that while VA will be obligated to provide assistance to claimants, the responsibility for proving a claim ultimately will rest with the claimant. That said, the amended section 5107(b) retains the language in current section 5107(b) requiring that claimants be given the "benefit of the doubt" when there exists an "approximate balance of positive and negative evidence regarding an issue material to the determination of the matter."

Section 101(f) of the Committee bill would specify that the assistance required by proposed section 5103A would apply to any claim filed or pending before VA or the applicable appellate court on or after the date of enactment. In addition, section 101(f) would require that claims denied or dismissed by VA for failure to meet the "well groundedness" test since July 14, 1999—the date of the Morton decision—be readjudicated at the request of the claimant or upon motion of the Secretary.

Section 101(g) of the Committee bill would make clerical amendments to chapter 51 in light of changes contained in Section 101.

Diseases presumed to be service-connected for radiation-exposed veterans

Background

As a general rule, diseases which are incurred or aggravated during active military, naval, or air service are "service connected" and, thus, give rise to eligibility for VA compensation and other benefits. Diseases which become manifest only after service may give rise to such eligibility under rules which specify legal presumptions with respect to such diseases. With respect to veterans who were exposed to radiation in service, such rules are set forth in section 1112 of title 38, United States Code.

Section 1112(c)(2) of title 38 lists 16 diseases which, if they become manifest in a radiation-exposed veteran at any time in his or

her lifetime, will be considered to have been incurred in or aggravated during active service. Thus, veterans who contract such diseases will generally be eligible for benefits as “service-connected” veterans even though there is no direct evidence that they contracted such diseases during service.

Committee Bill

Section 102 of the Committee bill would amend section 1112(c)(2) of title 38 by adding four additional diseases—lung cancer, colon cancer, tumors of the brain and central nervous system, and ovarian cancer—to the statutory listing of diseases which will be presumed to be “service-connected” if they are contracted by radiation-exposed veterans.

Special monthly compensation for breast loss

Background

Addition to “ordinary” disability compensation, VA pays additional compensation to veterans who, as a result of a service-connected disability, have suffered the anatomical loss, or the loss of use of, organs specified by statute. Currently, additional compensation of \$76 per month per loss is paid to veterans who have suffered the loss of a foot, a hand, a creative organ, or both buttocks. Additional compensation is also paid to veterans who have lost vision, speech or hearing capabilities. *See* 38 U.S.C. § 1114(k). More serious anatomical losses, *e.g.*, the loss of both feet, both legs, or total blindness, give rise to additional compensation at different, and higher, rates.

Committee Bill

The Committee bill would add the following additional anatomical loss to the “special monthly compensation” statutory listing in cases where such loss is sustained by a woman veteran due to service-connected disability: “one or both breasts (including loss by mastectomy)”. In the Committee’s view, the loss of a breast by a woman is consistent with the types of anatomical losses now listed in subsection (k).

Subtitle B—Education Matters

Background

Under chapter 30 of title 38, United States Code, educational assistance benefits (commonly referred to as the Montgomery GI Bill or “MGIB” benefits) are provided to otherwise eligible members of the armed services who first entered active duty after June 30, 1985, and who did not decline to participate in the program. The rate of basic pay of servicemembers who are MGIB participants is reduced by \$100 for each of the first 12 months of active duty service. Those who serve at least 3 years in active service, or who serve at least 2 years in active service and, thereafter, serve 4 years of continuous duty in the Selected Reserve, and who participate in full-time study after service, receive \$536 per month; for full-time-study, veteran students/trainees whose enlistment terms were 2 years receive a monthly benefit \$436.

The spouses and children of servicemembers who died in service, or were permanently and totally disabled in service, are eligible for

Dependents Educational Assistance benefits, under Chapter 35 of title 38, so long as they meet eligibility criteria set forth in chapter 35. Surviving spouses, for example, remain eligible so long as they are not remarried. Surviving children generally remain eligible for such benefits until they reach the age of 26, although extensions may be granted. Full-time students participating in the Dependents Educational Assistance program receive \$485 per month.

Committee Bill

In order to be eligible for MGIB participation, veterans and members of the Selected Reserves must have secured a high school diploma or a diploma equivalency certificate, or must have completed the equivalent of 12 semester hours in a program of education leading to a standard college degree. Generally, this prerequisite must be satisfied before completion of an initial period of obligated service or, in the case of the Selected Reserve benefit, before completion of initial active duty for training. Exceptions to this general rule have been enacted to allow, in certain cases, larger timeframes to satisfy its terms; such exceptions, however, have led to confusion and, perhaps, inequity. More fundamentally, such timeframes, tied as they are to the applicant's time in service, have led to the denial of benefits to individuals who served their country honorably but have only later—after such statutory deadlines have passed—earned a high school diploma or equivalency certificate or completed 12 semester hours of college. Section 111 of the Committee bill would simplify this situation by creating a single, uniform secondary school diploma requirement as a prerequisite for eligibility for education benefits—a requirement that, prior to applying for benefits, the applicant will have received a high school diploma or equivalency certificate, or will have completed the equivalent of 12 semester hours in a program of education leading to a standard college degree.

Another prerequisite to MGIB eligibility is completion of an “initial obligated period of active duty.” *See* 38 U.S.C. §§ 3011(a)(1)(A)(i), 3012(a)(1)(A)(i) (emphasis added). The Committee has learned of cases involving individuals who failed to complete an initial period of service and who later enlisted again and then served honorably for an entire obligated period of service. Such individuals are not now eligible for MGIB participation even though they completed an entire enlistment because the enlistment they did complete was not their *initial* enlistment. Section 112 of the Committee bill would strike the requirement that MGIB benefit entitlement be predicated on serving an “initial” period of obligated service and substitute in its place a requirement that an obligated period of active duty be served.

Sections 3002(3) and 3501(a)(5) of title 38 define the “programs of education” for which veterans, and surviving spouses and children, will receive education assistance benefits. Section 701 of Public Law 106–118 modified section 3002(3) to permit such assistance while a veteran—but not a surviving spouse or child—takes preparatory courses for standardized tests used for admission to college or graduate school. Section 113 of the Committee bill rectifies that oversight by allowing survivors’ and dependents’ educational assistance benefits to be provided to this group while such preparatory courses are being taken.

As noted above, children who are eligible for Dependents Educational Assistance benefits generally remain eligible until they reach the age of 26. In cases, however, where a child only becomes eligible for those benefits after he or she has reached 18 years of age (due, *e.g.*, to the death or service-connected permanent and total disability of a servicemember-parent when the child is 20), such benefits remain available to the child for a period of 8 years after the service-connected death or disability. As these rules are now drafted, they can operate, in practice, to shorten the time-frame of eligibility in cases where, for example, the child only becomes aware of his or her eligibility when it is later determined that the death or disability was, in fact, service connected. Section 114 of the Committee bill would rectify the loss of benefits otherwise permitted in such situations by allowing the Dependents Educational Assistance-eligible child to choose the starting date of his or her eligibility. Such children could choose any date as a starting date between the time when they first become eligible for benefits (the date of the parent's actual death or disability) and the date on which VA has made a determination that the death or disability in question was, in fact, service connected. A similar rule now applies to Dependents Educational Assistance-eligible spouses. *See* 38 U.S.C. § 3512(b)(3).

As noted in the preceding paragraph, cases arise where eligibility for Dependents Educational Assistance is not determined until VA adjudicates a claim. Cases can arise where a particular death or disability is not determined to be service connected until a considerable period of time—even years—after death or the onset of disability. In many such cases, the spouse or child might have already started (or even completed) his or her higher education prior to the adjudication of the underlying claim, but had not requested that his or her eligibility for Chapter 35 Dependents Educational Assistance benefits be adjudicated in advance of a decision on the underlying claim. Under current law, such persons may be deemed eligible for Chapter 35 benefits retroactively, but only for a 1-year period. Section 114 of the Committee bill would rectify this situation by allowing VA to retroactively award Chapter 35 benefits for a period exceeding 1 year to a spouse or child who would otherwise be eligible for Chapter 35 benefits so long as the claiming person files an application for such benefits within 1 year after VA makes a determination on the death or disability claim from which eligibility for the requested benefits arises.

Subtitle C—Housing Matters

Specially adapted housing grants

Background

Veterans with severe disabilities that limit ambulatory powers, *e.g.*, the loss of use of both legs, are eligible under chapter 21 of title 38 for specially adapted housing grants of up to \$43,000 to finance the purchase or remodeling of housing units with special adaptations necessary to accommodate their disabilities. Co-ownership of the property by the veteran and another person is not relevant to the amount of the grant if the co-owner is the veteran's spouse. If, however, the co-owner is person other than the veteran's spouse, the maximum grant amount is reduced by regulation to re-

flect the veteran's partial ownership of the property interest, *e.g.*, if the veteran jointly owns the property with one other person, the maximum grant is \$21,500. 38 C.F.R. § 36.4403. In 1999, VA made 770 specially adapted housing grants; VA estimates that it makes 5–10 grants per year to persons who owned a home with a person other than a spouse.

Committee Bill

Section 121 of the Committee Bill would amend section 2102 of chapter 21 to allow VA to make non-reduced grants for specially adapted housing in cases where title to the housing unit is not vested solely in the veteran, if the veteran resides in the housing unit.

Home loan guaranty ceiling and fees

Background

The VA Home Loan Guaranty Program facilitates the extension of favorable credit terms by private lenders to veterans, to active duty servicemembers, to certain members of the Selected Reserves, and to certain surviving spouses, *see* 38 U.S.C. § 3701, for the purchase, construction, or improvement of homes. The program operates by substituting the Federal Government's guaranty of a portion of the loan amount, thereby enabling creditworthy borrowers to secure favorable credit terms even if they lack funds for a significant downpayment. For loans of up to \$45,000, VA guarantees up to 50 percent of the loan amount; for loans between \$45,000 and \$144,000, VA guarantees up to 40 percent, with a maximum guaranty of \$36,000; and for loans of more than \$144,000, VA guarantees 25 percent of the loan amount, with a maximum guaranty of \$50,750. Under current mortgage loan industry practices, a loan guaranty of \$50,750 is sufficient to allow a veteran home purchaser to borrow up to \$203,000 toward the purchase of a home with no downpayment.

Home purchasers participating in the VA home loan guaranty program generally must pay a fee for participation. The amount of the fee depends upon the percentage of downpayment made by the veteran. Veterans who make a downpayment of less than 5% pay a fee of 3% of the loan amount. Those who make a downpayment of between 5% and 10% pay a 1.5% fee. Veterans who make a downpayment of 10% or more pay a fee of 1.25% of the loan amount. Fees are waived with respect to veterans receiving compensation for a service-connected disability. *See* 38 U.S.C. § 3729(c).

Committee Bill

Section 122 of the Committee Bill would amend section 3703 (a)(1) of title 38 to increase the maximum amount of the VA guaranty from \$50,750 to \$63,175. In many markets, housing prices have risen to the point that a guaranty of \$50,750 is not sufficient to allow a veteran-purchaser who would otherwise qualify to finance the purchase of a significant segment of the housing stock in his or her home area. An increase of the guaranty amount to \$63,175 would make no downpayment financing of up to \$252,700 available to qualified home loan guaranty program participants.

As noted above, fees are waived with respect to veterans receiving compensation for a service-connected disability. Section 123 of the Committee Bill would amend section 3729 of title 38 to add an additional category of fee-exempt borrower: persons who have been evaluated by VA as having compensable service-connected disabilities but who are not yet receiving disability compensation because they are still on active duty. In order to streamline its processes for adjudicating eligibility for compensation, VA increasingly offers medical examinations to, and rates the disabilities of, active duty servicemembers as part of the separation or retirement process. Under current law, VA cannot now waive collection of loan fees from such persons because they are not actually receiving—and they cannot actually receive—compensation while they remain on active duty. Active duty servicemembers can, however, participate in the VA home loan guaranty program. The Committee Bill would allow VA to waive fees for such persons even though they are not receiving VA compensation at the time they seek home loan financing.

Subtitle D—Insurance Matters

Background

Under Chapter 19 of title 38, VA administers programs providing life insurance coverage for certain veterans. These programs include the Service-Disabled Veterans Insurance (SDVI) program, which was created in 1951. This program provides up to \$10,000 in life insurance coverage to veterans with service-connected disabilities, and up to \$30,000 for veterans who are totally disabled. (Premiums are waived with respect to this latter group.) There are currently 147,870 SDVI policies in force.

Disabled veterans insured through the SDVI program pay premiums at the same rate as comparable non-disabled individuals. Veterans may elect coverage under either term or “permanent” policies. Premiums for “permanent” plans are substantially higher initially, but they do not increase as the insured ages. Term insurance premiums are substantially lower than “permanent” plan premiums when the insured is relatively young but, as is the case with all term life insurance policies, these premiums increase over time. In the case of SDVI term policies, premiums increase every 5 years to reflect the increased risk of death as individuals age.

The Servicemembers Group Life Insurance Program (SGLI) provides up to \$200,000 in coverage to individuals on active duty in the Armed Forces; to members of the Ready Reserves, the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Public Health Service; to cadets and midshipmen of the four service academies; and to members of the Reserve Officer Training Corps. The SGLI program is entirely self supporting except for costs attributable to excess mortality resulting from military hazards; those “excess” costs, if any, are borne by the uniformed services, a contingency last experienced during the Vietnam War. Coverage is available in \$10,000 increments up to a maximum of \$200,000 unless the servicemember declines coverage or elects coverage at a reduced amount. The current SGLI premium is \$.08 per month per \$1,000 of coverage. There are 2,307,000 SGLI policies in force.

Committee Bill

Section 131 of the Committee bill would cap premiums for SDVI term policies at the age 70 renewal rate, currently, \$5.87 per month per thousand dollars coverage. Term insurance policies become almost unaffordable for veterans over the age of 70. In recognition of that fact, premiums for other VA life insurance programs, e.g., the National Service Life Insurance program available to World War II veterans, have been capped at the rate established for renewal at age 70. The Committee Bill would provide the same benefit to the service-connected veterans insured through the SDVI program.

Section 132 of the Committee bill would increase the maximum amount of coverage available through the SGLI program from \$200,000 to \$250,000. The maximum amount of SGLI coverage has not been increased since 1992; the Consumer Price Index has increased 18% since that time.

Section 133 of the Committee bill would create a new section 1967A within chapter 19 of title 38. This new section would provide to SGLI-insured servicemembers an opportunity to provide for coverage of their spouses and children. Just as is the case for coverage of servicemembers, dependents' coverage would be "automatic" unless it is declined. The amount of coverage for a spouse would be equal to the coverage of the insured servicemember, up to a maximum of \$50,000. The lives of an insured servicemembers' dependent children would be insured for \$5,000.

Subtitle E—Burial Matters

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); President Franklin D. Roosevelt 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 also taking into account the newly independent Nation's responsibility to care for its own veterans. Congress 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.

Committee Bill

Section 141 of the Committee bill would amend 38 U.S.C. § 2402(4) to provide, in cases where a Commonwealth Army veteran dies after enactment of section 141, for the eligibility of a Commonwealth Army veteran for burial in a national cemetery if, at the time of death, he is a naturalized citizen of the United States, and he is resident in the United States.

Subtitle F—Employment Matters

Background

The Department of Labor, Veterans' Employment and Training Service (VETS), has primary responsibility for the implementation of laws relating to veterans' employment. Section 4102 of title 38 states Congressional intent with respect to veterans' employment programs as follows: "The Congress declares as its intent that there shall be an effective (1) job and job training counseling program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons. . . ."

Chapter 42 of title 38 specifies employment and training programs for certain veterans. Among these programs is one, set forth in section 4212, which requires that certain Federal contractors and subcontractors take affirmative action to employ and advance "special disabled veterans" (generally, veterans with serious employment handicaps or disability ratings of 30% or higher), Vietnam-era veterans, and other veterans who are "preference eligible" (generally, veterans who have served during wartime or in a campaign or expedition for which a campaign badge has been authorized).

Public Law 104-275, the "Veterans' Benefits Improvements Act of 1996," established the Commission on Servicemembers and Veterans Transition Assistance, a bipartisan commission which was charged with reviewing all programs designed to assist servicemembers and veterans in making the transition from service to civilian life, and with recommending improvements in those programs. In its report to the Congress, the Commission concluded, among other things, that the employment service priorities of VETS do not focus on the veterans most in need of assistance; that VETS is not sufficiently accountable for results; and that services that are provided would be improved if they were privatized or transferred from the Department of Labor to VA.

Committee Bill

Section 151 of the Committee bill would add "recently separated veterans" (veterans who have been discharged or released from ac-

tive duty within a 1-year period) to the universe of veterans to whom Federal contractors and subcontractors must extend affirmative action to employ and advance. It is the Committee's finding that such veterans are among those who most urgently need to be reintegrated into the civilian economy.

The Committee is concerned that programs administered by VETS are not as effective as they might be. Particularly troublesome to the Committee is the fact that, according to VETS data, only 26% of veterans who sought assistance from State employment offices secured jobs in a recent program year as a result of that assistance, and only 12% of veterans secured permanent employment. In addition, the Committee remains mindful of the findings of the Commission on Servicemembers and Veterans Transition Assistance summarized above. Thus, Section 152 of the Committee bill directs that the General Accounting Office conduct a comprehensive audit of VETS to evaluate the organizational structure of VETS and applicable legislation and regulations governing it.

Subtitle G—Benefits for Children of Female Vietnam Veterans

Background

In October 1998, the VA's Environmental Epidemiology Service released a study titled "Women Vietnam Veterans Reproductive Outcomes Health Study." This study, which was based on a review of the actual health histories of over 80% of the 4,140 women Vietnam veterans known to be alive as of January 1, 1992, found that the offspring of these women have suffered a statistically significant increase in the prevalence of birth defects (10.5% vs. 7.0%), and severe birth defects (7.7% vs. 5.8%) in comparison to the children of other women Vietnam-era veterans. The study came to these conclusions after having accounted for variations in age, race and other demographic factors, rank and characteristics of service variables, and variations in smoking, alcohol and drug use, and other potentially confounding factors, of cohort and control group members. This VA analysis has been subjected to peer review for verification, which review has resulted in, according to VA, acceptance for publication of the VA study in September 2000.

VA currently has authority to compensate veterans (and dependents) for a *veteran's* service-connected diseases or injuries. In addition, VA may, pursuant to Public Law 104-204, provide benefits to *children* of Vietnam veterans—but only to those children who were born with *spina bifida*.

Committee Bill

Subtitle G of Title I of the Committee bill would, in summary, extend (with a single variation) to the children born with birth defects to women Vietnam veterans the same benefits as those now afforded to Vietnam veterans' children with *spina bifida* under chapter 18 of title 38, United States Code. Under chapter 18 of title 38, children with *spina bifida* of Vietnam veterans currently receive:

1. A monthly monetary allowance, varying by degree of disability of the person with *spina bifida*;
2. Health care for any disability associated with that person's *spina bifida*; and

3. Vocational training, job placement, and post-job-placement services.

The Committee concludes that the “Women Vietnam Veterans Reproductive Outcomes Health Study” sufficiently makes the case that women Vietnam veterans have sustained a disproportionate risk of bearing children with birth defects and that, accordingly, benefits like those extended to the *spina bifida* children of Vietnam veterans should be afforded to all children with birth defects who were born to Vietnam veteran women.

Section 162 of the Committee bill puts into place the basic entitlement to benefits and creates a new subchapter to chapter 18 of title 38. Section 1811 of that new subchapter would define key terms, and section 1812 would specify the health care, vocational training, and monetary allowance benefits to which covered persons would be entitled. Benefits would be provided to women Vietnam veterans’ children born with birth defects which have resulted in permanent physical or mental disability, except for birth defects which VA may determine were caused by familial disorders, birth-related injuries, or fetal or neonatal infirmities. As noted above, the benefits provided would be, with one exception, the same as those provided to *spina bifida* children of Vietnam veterans. The variation is this: Public Law 104–204 provides for a three-tiered monetary allowance scheme under which the *spina bifida* children of Vietnam veterans with varying degrees of disability receive compensation. The Committee bill adds a fourth, and lower, tier benefit for persons covered by the Committee bill in recognition of the fact that the Committee bill covers a broad spectrum of birth defects and some of those birth defects are less disabling than *spina bifida* is.

Subtitle H—Other Benefits Matters

Background

Pursuant to Public Law 100–321, VA provides compensation to veterans who were exposed to ionizing radiation in service (due to participation in the occupation forces of Hiroshima or Nagasaki immediately after WWII, or in nuclear testing activities during the Cold War era) and who, subsequently, are diagnosed with the “presumptive diseases” listed in 38 U.S.C. § 1112(c)(2). VA may also compensate radiation-exposed veterans with diseases not presumed to be service connected if it determines that it is at least as likely as not that the disease is the result of exposure taking into account the amount of exposure and the radiogenic properties of the disease, but VA requires that such exposures be verified through dose reconstruction analysis provided by the Department of Defense (hereinafter, “DOD”). See 38 C.F.R. § 3.311.

On April 21, 1998, the Committee held a hearing regarding compensation for illnesses associated with exposure to ionizing radiation while in service. At that hearing, the Committee learned that very few veterans have been granted service connection for diseases potentially resulting from radiation exposures in cases where the veterans have had to rely on DOD dose reconstruction. In most cases, DOD dose reconstructions have led VA to conclude that if the veteran was exposed to radiation, the exposure was not at a sufficient level of radiation to cause illness. Some members of a

panel of scientists at that hearing, however, were skeptical of DOD's dose reconstruction methodology.

In light of the absence of consensus on the validity of DOD's dose reconstruction methodology, Chairman Specter and Ranking Minority Member Rockefeller requested that GAO review DOD's dose reconstruction process. The results of that inquiry are set forth in GAO's report, "Independent Review Could Improve Credibility of Radiation Exposure Estimates" (GAO/HEHS-00-32), January 28, 2000. While GAO found that dose reconstruction tends to overstate rather than understate actual exposure, GAO also found that, among other things, the National Academy of Sciences' Institute of Medicine, and the National Research Council, are critical of DOD's quality controls and its lack of a peer review process. GAO recommended that DOD establish a process for independent review of its dose reconstruction process.

Committee Bill

Section 171 of the Committee bill specifies that, consistent with GAO's recommendation, DOD shall contract with the National Academy of Sciences (hereinafter, "NAS") to carry out periodic reviews of the dose reconstruction program. NAS would review whether DOD's reconstruction of sampled doses is accurate; whether DOD assumptions regarding exposure based upon sampled doses are credible; and whether data from nuclear testing used by DOD in its reconstructions are accurate. The review would last 24 months and culminate in a report detailing NAS' findings and recommendations, if any, for a permanent review program.

TITLE II—HEALTH CARE MATTERS

Medication copayments

Background

Under current law, VA provides medical care, without imposing an obligation to make copayments for such care, to veterans who are "unable to defray the expenses of necessary care . . ." 38 U.S.C. § 1710(a)(2)(G). Whether a given veteran is, or is not, "unable to defray" is determined by comparing his or her annual income against a sliding scale of income thresholds (currently calculated at \$22,888 for veterans with no dependents, \$27,469 for veterans with one dependent, plus additional allowances for additional dependents).

A separate provision of law, 38 U.S.C. § 1722A, mandates that VA charge a copayment for each 30-day supply of prescription medications provided to a veteran on an outpatient basis if that medication is for the treatment of a non-service-connected condition. Two categories of veterans are exempted from the copayment obligation: veterans who have service-connected disability ratings of 50% or higher; and veterans whose annual income does not exceed the maximum amount of "means-tested" VA pension that would be payable if such veteran were to qualify for pension. Eligibility for pension—like priority eligibility for health care on the basis of one's means—is determined by measuring the veteran's annual income and comparing it to a sliding scale of income thresholds. The eligibility thresholds, however, differ from one another; the pension threshold is \$8,989 for a veteran with no dependents

and \$11,773 for a veteran with one dependent, and, as noted above, the “unable to defray” thresholds are higher. As a consequence, veterans who are given priority access to VA health care and are exempted from making copayments for that health care under one measurement of their means, are required to make copayments for medications under a different measurement of their means.

Committee Bill

Section 201 of the Committee bill would unify the copayment exemption thresholds at the pension rate. It is the Committee’s view that if a veteran is deemed to be eligible for priority access to health care without copayments because he or she meets an “unable to defray” test, the veteran similarly lacks the means to defray a medication copayment obligation.

Physician assistants

Background

Physician assistants have become an increasingly important component of VA treatment teams, particularly as VA, like the Nation’s health care system generally, makes a transition to primary-based care. VA’s current medical management structure does not fully reflect this reality; it remains, in part, as it was when VA was a hospital-based provider of care. For example, the Office of the Under Secretary for Health is staffed by various officials, drawn from the professions of medicine, nursing, pharmacy, dietetics, podiatry, and optometry. *See* 38 U.S.C. § 7306. That office, however, is not staffed by a service director or other official trained as a physician assistant.

Similarly, VA has statutory authority to employ, on a temporary full-time basis, yet-to-be licensed professionals who have successfully completed a full course of training in nursing, or in other statutorily recognized disciplines, but not physician assistants. *See* 38 U.S.C. § 7405(c)(2). This statute was enacted to facilitate VA hiring of such professionals, on a temporary basis, after they have completed training but not to exceed 2 years, while they await the receipt of licenses, registrations, or certifications which are prerequisites to meeting professional quality standards and to securing non-temporary employment at VA.

At the time section 7405 was enacted, physician assistants were not required by the Commission on Accreditation of Allied Health Education Programs to obtain licenses or other certifications before meeting professional quality standards—but now they are. VA, however, only offers them 1-year, non-renewable appointments rather than 2-year appointments while they await licensing. *See* 38 U.S.C. § 7405(3). This limitation has harmed VA physician assistant recruiting efforts since it can take more than 1 year for these professionals to complete their licensing requirements, a situation that causes recently trained physician assistants to decline VA appointments which must be terminated if licensing is not completed within 1 year.

Committee Bill

Section 202 of the Committee bill adds to the list of professions which, by statute, form the Office of the Under Secretary for

Health. It would direct that that office employ an Advisor to the Under Secretary on Physician Assistants. This person would be responsible for advising the Under Secretary on matters relating to the optimal utilization of physician assistants, the appropriate clinical privileges and practice areas for physician assistants, initiatives to utilize physician assistants more optimally, and policies affecting the employment of physician assistants.

Section 203 of the Committee bill would authorize VA to appoint persons who have completed a full course of physician assistant training to temporary full-time positions on the same 2-year basis under which nurses, and other professionals, are now hired.

TITLE III—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Construction Matters

Background

VA may not obligate or expend funds on any “major medical facility project” unless that project has been specifically authorized by law. See 38 U.S.C. § 8104. A “major medical facility project” is one that will involve the construction, alteration, or acquisition of a medical facility involving the total expenditure of more than \$4 million.

In 1999, funds were appropriated for VA to proceed on a major construction project in Murfreesboro, TN, which has not been authorized. VA, therefore, has been precluded from expending funds on that project. VA has requested authorization to proceed on that project and on a second project in Menlo Park, CA. The Committee’s staff has considered both proposals and has visited the sites of both proposed projects.

Committee Bill

Subtitle A of title III of the Committee bill would authorize the two major medical facility projects requested by VA: a renovation of a psychiatric nursing care unit at Murfreesboro, TN (\$14 million); and the construction of a gero-psychiatric facility at Palo Alto/Menlo Park, CA (\$26.6 million). In addition, the Committee bill would authorize the construction of a nursing home at Beckley, WV, at a cost of \$9.5 million.

The Murfreesboro, TN, project would provide renovations to the medical center’s long-term psychiatric care unit by rebuilding four units of 30 beds each. The current facility, constructed in the 1940’s, lacks proper privacy facilities in sleeping and shower areas, and is equipped to treat only two female patients at a given time. In addition, the long-term psychiatric care unit’s nursing station is ill-equipped to monitor and care for severely mentally ill patients. As a consequence, the Joint Commission on Accreditation of Healthcare Organizations has been critical of the facility.

The Menlo Park, CA, project would replace the current 109-bed gero-psychiatric care nursing home on the grounds of the Palo Alto Health Care System’s Menlo Park Division. In addition to replacing existing beds, the project would add an additional 11 beds, for a total of 120 gero-psychiatric beds, that are needed to meet increasing demand for nursing home care in northern California. The current facility, built in 1967, meets neither VA nor State of California earthquake safety standards, and this project is necessary to en-

sure structural integrity and, thus, the safety of the elder veterans this facility treats.

The West Virginia project would provide for a new 120-bed nursing home care unit on the grounds of the Beckley VA Medical Center to replace the medical center's current 50-bed unit, which is fully occupied 95% of the time. The demand for skilled and palliative care in the medical center's catchment area far exceeds VA's current capacity, and with only two community facilities offering even limited access to veterans for Alzheimer's/dementia care, the community is unable to meet the needs of local veterans. Of the 120 beds in the new facility, 20 would be devoted to skilled nursing care, 20 to a dementia special care unit, and 80 for long-term nursing beds, with 10 of those specifically designated for palliative care use.

Subtitle B—Other Matters

Leases to providers of services to homeless veterans

Background

As noted above, VA's Home Loan Guaranty Program assists veterans in readjusting to civilian life by facilitating their purchase, construction, or improvement of homes. VA does so by encouraging private lenders to extend favorable credit terms to veterans by guaranteeing repayment of a portion of the lender-provided home loan.

Unfortunately, it is the case that, in unusual circumstances, veterans default on mortgage loans guaranteed by VA. In such cases, the lender will foreclose and VA, as guarantor, may come into possession of the property. Such properties, typically, are sold to the public by VA. VA, however, has the option of leasing such properties to public and nonprofit private providers of services to homeless veterans so that such service-providers may offer shelter and other services to homeless veterans and their families. See 38 U.S.C. § 3735. Such leases to the providers of services to homeless veterans, however, may not exceed 3 years in term.

Committee Bill

Providers of services to homeless veterans have shown a willingness to invest funds in the renovation of VA-leased properties to make them more suitable for providing services to homeless veterans and their families. VA encourages such investments by service-providers by offering grants and per diem subsidies to assist them in establishing assistance programs. Even so, providers typically require financing to cover their share of costs, but lenders often require assurance that the borrower's program will operate for a period exceeding 3 years before they will provide renovation financing. Section 311 of the Committee bill would extend the maximum term of VA leases to providers of services to homeless veterans from 3 to 20 years.

Property transfers

Background

Generally, when a Federal agency such as VA finds that it no longer needs real property that it occupies, it reports the "excess"

to the General Services Administration (hereinafter, "GSA"). GSA then "shops" the property to other Federal entities and, simultaneously, requests that the Department of Housing and Urban Development (hereinafter, "HUD") determine whether the property is suitable for use in providing services to homeless persons. See 42 U.S.C. § 11411. In cases where another Federal agency can use the property, it is transferred to that agency. If there is no such Federal need, it is made available to HUD for use for providing shelter or other services to homeless persons—if it is suitable for that purpose. If it is not suitable for that purpose, it is declared "surplus" and then may be transferred to State or local government entities, but only for specific statutory purposes, see 40 U.S.C. § 484(j). Otherwise, it can only be sold for other governmental use for a fair market value price, or it can be sold to the public by sealed bid or auction.

Committee Bill

Sections 312–314 would, for these two cases, streamline the above-outlined property disposal procedures by authorizing VA to convey two properties to other governmental users (in one case, a county government and in the other case, a State government). In one case, VA would transfer medical center facilities in Miles City, MT, to Custer County, MT, while leasing back space in which it would operate an outpatient clinic. Custer County would devote the transferred land to assisted living apartments for the elderly and to a number of other economic enhancement and community activity uses, including education and training courses at Miles Community College, a Technology Center, local fire department training, and use by the Montana Area Food Bank. VA, in turn, would be relieved of the requirement to spend over \$500,000 per year maintaining a facility that is poorly suited to provide health care to the veterans of eastern Montana. VA could devote the funds so saved to opening and operating outpatient clinics throughout rural Montana.

The other property conveyance would take place at Ft. Lyon, CO. In this case, excess VA property used as medical center and nursing home care facilities would be conveyed to the State of Colorado for use by the State as a corrections facility. Under the terms of the Committee bill, the conveyance would not take place unless and until arrangements had been made to protect the interests of affected patients and employees of the Ft. Lyon VA Medical Center (VAMC). With respect to patients, VA would be directed to make alternate arrangements to ensure that appropriate medical care and nursing home care services would continue to be provided, on the same basis that care had been provided at the Ft. Lyon VAMC, to all veterans who had been receiving such services at the medical center. Such services would be provided, if necessary, by community facilities at VA expense notwithstanding any legal limitations—*e.g.*, those set forth in 38 U.S.C. § 1720 limiting the time for which such care might be provided to veterans for non-service-connected disabilities—that might otherwise apply. Further, VA would be authorized to offer voluntary separation incentive payments to eligible employees of the Ft. Lyon VAMC. In addition, the State would be required to allow public access to the Kit Carson Chapel located on the grounds of the VAMC. And, finally, the Committee

bill would require that VA file a report, not later than 1 year after the conveyance, concerning the status of the VA health care system in Southern Colorado.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office (hereinafter, "CBO"), estimates that enactment of the Committee bill would result in an increase in direct spending, as compared to costs under current law and as scored against the current CBO baseline, of \$44 million in fiscal year 2001, \$651 million in fiscal years 2001 through 2005, and \$1.7 billion in fiscal years 2001 through 2010. In addition, enactment of the Committee bill would, according to CBO, result in additional outlays of \$64 million in fiscal year 2001, and \$369 million in fiscal years 2001 through 2005, 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, August 22, 2000.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1810, the Veterans Programs Enhancement Act of 2000.

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.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1810—Veterans Programs Enhancement Act of 2000

Summary: S. 1810 contains provisions that would affect a wide range of veterans' programs, including readjustment benefits, disability compensation, dependency and indemnity compensation (DIC), and veterans' medical care. CBO estimates that enacting the bill would increase direct spending by \$44 million in 2001, \$651 million over the 2001–2005 period, and \$1.7 billion over the 2001–2010 period. 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 \$64 million in 2001 and \$369 million over the 2001–2005 period, assuming appropriation of the necessary amounts.

S. 1810 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA)

and would impose no costs on state, local, or tribal governments. Any costs to state, local, or tribal governments as a result of enactment of this bill would be incurred voluntarily.

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 benefits and services).

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF S. 1810, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON VETERANS' AFFAIRS

	By fiscal year, in millions of dollars				
	2001	2002	2003	2004	2005
CHANGES IN DIRECT SPENDING					
Estimated budget authority	32	76	154	177	197
Estimated outlays	44	81	152	176	198
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	126	93	61	61	61
Estimated outlays	64	98	72	71	64

BASIS OF ESTIMATE

Direct spending

The bill would affect direct spending in several programs, including disability compensation, veterans' home loans, and readjustment benefits (see Table 2).

Disability Compensation.—Enacting the bill would increase direct spending for compensation for veterans exposed to radiation, veterans who suffer a service-connected loss of one or both breasts, and certain veterans' children with birth defects.

Veterans exposed to radiation.—Section 102 would add four conditions to the list of diseases presumed to be connected to participation in atmospheric testing or occupation of Hiroshima and Nagasaki. By requiring a presumption that, for certain veterans, these illnesses are service-connected, the bill would increase the number of radiation-exposed veterans who are eligible for disability compensation or whose spouses are eligible for dependency and indemnity compensation. CBO estimates that enacting section 102 would increase direct spending by \$19 million in 2001 and by about \$513 million over the 2001–2005 period.

Data from the Defense Special Weapons Agency (formerly the Defense Nuclear Agency) indicate that approximately 210,000 military personnel participated in atmospheric nuclear tests. In addition, approximately 200,000 military personnel participated in the post-war occupation of Hiroshima and Nagasaki, Japan. Assuming that the average age of participants was 24 years at the time for participation, CBO estimates that about 200,000 of those veterans are alive today.

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING UNDER S. 1810

	By fiscal year, outlays in millions of dollars					
	2000	2001	2002	2003	2004	2005
DISABILITY COMPENSATION						
Spending under current law	18,816	19,719	20,505	21,215	21,898	24,377

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING UNDER S. 1810—Continued

	By fiscal year, outlays in millions of dollars					
	2000	2001	2002	2003	2004	2005
Proposed changes	0	20	63	121	146	169
Spending under S. 1810	18,816	19,739	20,568	21,336	22,044	24,546
VETERANS' HOME LOANS						
Spending under current law	506	187	154	395	393	390
Proposed changes	0	9	8	25	25	24
Spending under S. 1810	506	196	162	420	418	414
READJUSTMENT BENEFITS						
Spending under current law	1,459	1,473	1,489	1,512	1,545	1,587
Proposed changes	0	1	2	2	2	2
Spending under S. 1810	1,459	1,474	1,491	1,514	1,547	1,589
SERVICE-DISABLED VETERANS' INSURANCE						
Spending under current law	13	18	5	5	5	5
Proposed changes	0	(¹)	(¹)	1	1	1
Spending Under S. 1810	13	18	5	6	6	6
PRESCRIPTION COPAYMENTS						
Spending under current law	0	-68	-41	-41	-39	-36
Proposed changes	0	14	8	3	2	2
Spending under S. 1810	0	-54	-33	-38	-37	-34

¹ Less than \$500,000.

To estimate the caseload of veterans having each disease, CBO used disease and age-specific incidence and mortality rates from the National Cancer Institute. (CBO has no basis for estimating different incidence and mortality rates for this particular population.) Based on this analysis, CBO estimates that about 8,000 of these veterans and nearly 11,000 spouses of deceased veterans would be eligible for benefits in 2001. The estimate assumes that roughly 25,000 veterans died from these diseases during the 1945–2000 period, that two-thirds of the deceased veterans had spouses, that 20 percent of those spouses remarried, making them ineligible for DIC, and that some spouses died during the same period.

For the 2001–2005 period, CBO estimates benefit payments based on the incidence of the qualifying diseases, expected mortality rates among veterans and survivors, the number of potential beneficiaries at the start of 2001, and assumptions about annual participation. CBO projects that of the 19,000 veterans and survivors who would be eligible for benefits in 2001 about 2,000 would receive benefits in that year. Recognizing that a small number of affected veterans and survivors may draw benefits under current law and that not all potential new beneficiaries would participate, CBO assumes that 50 percent of all eligible survivors at the end of 2000 would apply for benefits and 75 percent of all veterans and post-1998 survivors would participate in the program. We also assume that it would take about three years to reach the full estimated participation rate. CBO anticipates that by 2005 approximately 13,000 veterans and survivors would receive benefits as a result of enacting this section.

CBO used data from the Department of Veterans Affairs (VA) that was specific to the four diseases to calculate the average compensation payments to veterans. Average annual benefits for veterans with the diseases vary from about \$16,000 for brain cancer to about \$5,000 for ovarian cancer, reflecting the differing disability ratings of veterans currently receiving benefits for these illnesses. However, those benefit levels also include payments to veterans for additional disabilities, and thus incremental benefits under section 102 would be less than those averages. CBO has no information as to what portions of those averages stem from disabilities other than those covered by the bill. We assume that incremental compensation benefits would fall below those averages by \$2,000. For DIC recipients, the estimated benefit is approximately \$11,000 annually for all survivors. This estimate also assumes that beneficiaries would receive annual cost-of-living adjustments.

Section 102 also would lead VA to provide additional medical care services, assuming appropriation of necessary amounts. Information about those estimated costs are provided below with other spending subject to appropriation.

Compensation for mastectomies.—Section 103 would provide additional disability compensation to veterans who suffer a service-connected loss of one or both breasts by mastectomy. Under current law, veterans who lose certain body parts or sensory or vocal capabilities because of a service-connected condition are entitled to special monthly compensation of \$76 a month in 2000 for each eligible impairment. Section 103 would authorize these special payments for veterans who have lost one or both breasts from a radical or modified mastectomy that is related to a service-connected condition.

CBO estimates that about 350 veterans are currently receiving disability payments for these type of mastectomies, and based on data from VA, about 35 new beneficiaries are added every year. Over the 2001–2004 period, the new payments would cost less than \$500,000 annually. From 2005 through 2010, annual spending would be over \$500,000 but less than \$1 million.

Children with birth defects.—Under current law, certain children with spina bifida are eligible for benefits from VA. Section 162 would extend those benefits to certain children with other birth defects. Children with birth defects that are genetic in nature and that arise from well-known and recognized causes would not be eligible.

This section provides for a monthly allowance to be paid to each individual based on the severity of the disability. The bill would establish four levels of disability and associated payments that would range from \$100 a month to \$1,272 a month. For this estimate, CBO assumes that potential beneficiaries would be distributed uniformly across the four categories and that 75 percent of them would apply for and receive payments. CBO estimates that the allowance would cost about \$1 million a year.

Section 162 also would extend health care benefits to these children, assuming appropriation of the necessary amounts. Information about the estimated costs are provided below with other spending subject to appropriation.

Veterans' Home Loans.—The bill also would increase direct spending for certain veterans' housing benefits.

Increase in loan guaranty.—Section 122 would increase the maximum loan guaranty amount from \$50,750 to \$63,175, thereby raising the maximum loan amount from \$203,000 to \$252,700 (for large loan amounts, VA can only guaranty 25 percent of the loan amount). CBO estimates that enacting this section would increase direct spending by \$9 million in 2001 and by \$90 million over the 2001–2005 period. The cost over 10 years would be approximately \$220 million. Based on information from VA, CBO estimates that the provision would result in 8,000 new loans a year over the 2001–2010 period. In addition, roughly 3,000 loans each year would now be made with higher loan amounts—these would not be new borrowers, but veterans who would no longer need a downpayment to qualify for the VA loan guaranty benefit.

Other housing provisions.—Section 121 would prohibit VA from reducing a grant for specially adapted housing if the title to the property is held jointly by the veteran and another person. Section 123 would waive the loan fee for any veteran who has been rated eligible for compensation benefits even if an effective date for receiving compensation has not yet been established; under current law, a veteran must be receiving compensation payments before the loan fee is waived. Both sections would affect few borrowers and would have insignificant effects on direct spending.

Readjustment Benefits.—Subtitle B contains several provisions that would affect veterans readjustment benefits.

Diploma requirement.—To be eligible for the Montgomery GI Bill (MGIB) under current law, an individual must meet certain educational prerequisites before the end of his or her initial period of obligated service. Section 111 would remove the time constraint by allowing a secondary school diploma or its equivalent to be obtained at any time before applying for MGIB benefits. Based on information from the Department of Defense (DoD), CBO estimates that this section would make an additional 300 individuals eligible for the program each year. Based on current usage rates for MGIB benefits, CBO estimates an additional 20 trainees would use MGIB benefits in 2001, increasing to almost 300 additional trainees in 2010. CBO estimates that the provision would cost \$100,000 in 2001, \$2 million over the 2001–2005 period, and \$7 million over the 2001–2010 period.

Obligation for duty.—MGIB eligibility also requires an individual to complete his initial service obligation. Section 112 would relax that requirement, allowing eligibility to be based on any completed period of obligated service. This would allow an individual who separated from the service during one period of duty to qualify for MGIB benefits by completing a subsequent obligated period of service. Based on information from DoD, CBO estimates that, of those individuals separating from the service each year, an additional 65 would be eligible for MGIB benefits. Assuming that about half of these individuals use their benefits and that they train according to current usage rates, the cost would be about \$60,000 in 2001, about \$1 million over the 2001–2005 period, and about \$3 million over the 2001–2010 period.

Preparatory courses.—Section 113 would extend MGIB benefits to cover preparatory courses for college or graduate school entrance exams. Veterans who would otherwise consume their entire entitlement would forgo a payment at the end of their training if they use

the benefit under this section, but for all other veterans, this section would add to spending. CBO estimates that this provision would increase direct spending by about \$3 million over the 2001–2005 period. The estimate assumes that each year about 1,700 participants would receive an average benefit of about \$365 for preparatory courses.

Period of eligibility.—Section 114 would offer certain children, who are eligible for education benefits because of the service-connected death or total disability of a parent, a greater choice as to the beginning date of their eligibility period. Current law allows a child who becomes eligible for such benefits between the ages of 18 and 26 to choose a starting date that is either the date of the parent's death or the date the Secretary of Veterans Affairs finds the death to be service-connected. Section 114 would allow those adult children to begin the period of eligibility at any time between those two dates. Similarly, adult children whose eligibility is based on a parent's disability could choose to begin their eligibility periods at any time between the effective date of the parent's disability and the date the Secretary first finds the disability to be permanent, total, and service-connected.

The bill would extend the eligibility period for about 1,700 adult children whose benefits expire each year according to data from VA. About 7 percent of them are training when they reach the end of the eligibility period. CBO assumes that half of those adult children whose eligibility period expires could gain extra time by changing their start dates as the bill would allow. CBO estimates this provision would result in an additional 60 trainees a year at a total annual cost of about \$200,000.

Effective date of entitlement.—Section 115 would allow retroactive payments to otherwise eligible dependents of veterans for education undertaken during the period after the veteran died or became totally disabled but before the disability was found to be total or the death or disability was found to be service-connected. Currently, most dependents file an application for benefits after the Secretary's finding of service-connected death or disability. While this finding may be made several years after the date of death or what is found to be the effective date of the disability, benefits may not be granted for more than one year before the date of receipt of the dependent's application. This section would direct the Secretary to consider any application received within a year of the finding to have been filed on the effective date of death or disability.

Based on information from the VA, CBO estimates section 115 would initially result in about 125 additional requests for retroactive benefits in 2001 and 2002, and about 50 additional requests in succeeding years. Thus, the cost would be higher in the first few years because of a backlog of newly qualified applicants. The estimated cost over the 2001–2005 period would be about \$2.5 million.

Service-Disabled Veterans' Insurance.—The Service-Disabled Veterans' Insurance (SDVI) program insures veterans with service-connected disabilities. Participants receive a subsidy equal to the difference between the premiums they pay, which account for age but not disabilities, and the actual cost of the program. The term policies are renewable for life, but the premiums at the older ages can be costly. Section 131 would eliminate increases in premiums when

beneficiaries over age 70 renew their policies; that is, premiums on renewals would be capped at the rate for 70-year-olds.

For this estimate, CBO used data from VA on premiums for policyholders 70 or more years of age and the premiums under the proposed cap. The difference represents an additional subsidy that VA would provide. For 2001 and 2002, the cost would be less than \$500,000 annually. From 2003 through 2005, the annual cost would be more than \$500,000 but less than \$1 million.

Prescription Copayments.—The bill contains a provision that would lower the amounts that VA receives from copayments for medical care. Under current law, VA may spend some of those receipts; thus, the impact on direct spending is limited to the effects of timing and the likelihood that VA does not spend as much as it collects. Because receipts would be forgone before spending would be lowered, the effect of timing is to raise costs in the near term. Eventually, the lowered spending would offset the loss of receipts except, however, to the extent that VA does not spend all that it could from those collections. CBO estimates that this provision would cost \$14 million in 2001, but the annual cost would decline to about \$2 million a year by 2004. At some point after then reduced spending might offset the forgone receipts. Other assumptions and impacts of this provision are discussed below with other parts of the bill that would affect spending subject to appropriation.

Burial Benefits for Certain Filipino Veterans.—Section 141 would expand the eligibility for interment in national cemeteries to certain Filipino veterans of World War II (WWII). Current law allows for certain members of Philippine military forces that were in service to the Armed Forces of the United States during World War II to receive some veterans' benefits. This provision would allow for the burial of these veterans in national cemeteries. Using the number of living WWII Filipino veterans, expected mortality rates, assumptions about veterans' burial rates in national cemeteries, and the costs for such interment, CBO estimates that it would cost less than \$500,000 annually to provide this benefit.

Spending subject to appropriation

Table 3 shows the estimated effects of S. 1810 on discretionary programs, assuming that appropriations are provided in the amount of the estimated authorizations.

Medical Care.—Implementing the bill would increase discretionary spending for veterans' medical care by \$58 million in 2001 and \$287 million over the 2001–2005 period.

TABLE 3. ESTIMATED CHANGES IN SPENDING SUBJECT TO APPROPRIATION FOR S. 1810

	By fiscal year, in millions of dollars					
	2000	2001	2002	2003	2004	2005
VETERANS' MEDICAL CARE						
Spending under current law:						
Estimated authorization level ^{1,2}	19,493	19,493	19,493	19,493	19,493	19,493
Estimated outlays	18,791	19,312	19,441	19,415	19,396	19,377
Proposed changes:						
Estimated authorization level	0	72	86	53	53	53
Estimated outlays	0	58	78	49	51	51
Spending under S. 1810:						
Estimated authorization level	19,493	19,565	19,579	19,546	19,546	19,546
Estimated outlays	18,791	19,370	19,518	19,464	19,447	19,428

TABLE 3. ESTIMATED CHANGES IN SPENDING SUBJECT TO APPROPRIATION FOR S. 1810—
Continued

	By fiscal year, in millions of dollars					
	2000	2001	2002	2003	2004	2005
GENERAL OPERATING EXPENSES						
Spending under current law:						
Estimated authorization Level ^{1,2}	941	941	941	941	941	941
Estimated outlays	925	941	941	941	941	941
Proposed changes:						
Estimated authorization level	0	4	7	8	8	8
Estimated outlays	0	4	7	7	8	8
Spending under S. 1810:						
Estimated authorization level	941	945	948	949	949	949
Estimated outlays	925	945	948	948	949	949
CONSTRUCTION OF MEDICAL FACILITIES						
Spending under current law:						
Budget authority ¹	65	0	0	0	0	0
Estimated outlays	253	217	171	116	56	27
Proposed changes:						
Estimated authorization level	0	50	0	0	0	0
Estimated outlays	0	2	13	16	12	5
Spending under S. 1810:						
Estimated authorization level	65	50	0	0	0	0
Estimated outlays	253	219	184	132	68	32
SUMMARY OF CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated authorization level	0	126	93	61	61	61
Estimated outlays	0	64	98	72	71	64

¹ The figure shown for 2000 is the amount appropriated for that year.

² The estimate assumes that funding under current law will remain at the level appropriated for 2000 without adjustment for inflation. If funding over the 2001–2005 period is adjusted for inflation, the base amounts for medical care and general operating expenses would increase by about \$600 million a year and \$30 million a year, respectively. In both cases the estimated changes would remain as shown under “Proposed Changes.”

Prescription copayments. Under current law, VA provides prescription drugs to beneficiaries when VA both writes and fills a prescription. The current copayment for these prescriptions is \$2, although VA may increase the copayment to \$5 in early 2001. Many veterans are exempted from the copayment because they have service-connected disabilities or a low enough income. Section 201 would raise the income threshold thereby increasing the number of veterans who would not pay for prescriptions.

For income-based exemptions the current threshold is about \$9,000 for a single individual, although the amount varies based on the number of dependents. The new threshold would be roughly \$22,000 for a single individual. According to VA, the individuals in the affected category purchase about 40 percent of the prescriptions for which VA charges a copayment. In 2001, CBO expects pharmaceutical copayments to reach about \$80 million from the \$2 copayment amount and an additional \$120 million from the increase in pharmaceutical copayments from \$2 to \$5. Thus, the cost of the proposal would be 40 percent of those amounts.

Differentiating the copayment into two streams is important because the relevant amounts are treated differently in federal budgeting. Money from the first \$2 in copayments can be spent by VA only if it receives a subsequent appropriation. (The authority to collect the first \$2 of the copayment expires at the end of fiscal year 2002.) Additional copayment receipts over \$2 can be spent automatically, that is, without further appropriation. Although the forgone receipts are nearly offset by a reduction in spending, the provision would result in a greater demand for appropriations to offset

the reduced spending. CBO estimates that VA's need for discretionary funding would increase by \$297 million over the 2001–2005 period.

Veterans exposed to radiation.—VA provides medical care to veterans based on priorities established in law. The highest priorities are given to veterans with service-connected disabilities, but VA also has a program to provide health care to veterans with potentially radiogenic diseases, but only for treatment of those diseases. Under section 102, certain veterans with lung, ovarian, colon, and tumors of the brain and central nervous system would receive the highest priorities because their diseases would be presumed to be service-connected. By requiring this presumption of service connection, the bill would probably draw a greater number of veterans to VA for care. It might also lead some veterans who currently receive care from VA to have a greater share of their needs taken care of by VA.

CBO estimates that implementing the bill would raise spending on veterans' medical care for radiation-related treatment by \$1 million in 2001 and by \$14 million over the 2001–2005 period, assuming appropriation of the necessary amounts. This estimate depends primarily on assumptions about how many of the affected veterans already receive the highest priorities, how many veterans the bill would attract to the VA health system, and how many current patients would receive a greater range of care. The key assumptions are as follows:

- Roughly one-third of these veterans would already have high-priority access based on other compensable service-connected disabilities or income, as allowed under current law. (This figure is based on CBO's estimate of the proportion of WWII veterans with such status in 1996.)

- About one-tenth of the veterans who gain a higher priority would use VA medical services. CBO estimates that VA's per capita spending would be about \$13,000 annually for most new cancer patients. This cost factor, which is roughly three times VA's average annual cost per user, is based on a recent study showing a comparable difference between Medicare's average annual cost per beneficiary with certain types of cancer, including lung cancer, and all beneficiaries who receive medical care. CBO estimates that care for the remaining new patients would cost VA the same per capita amount that it spends for current patients.

- About one-fourth of the veterans who would use priority care under this bill would already be receiving cancer treatment from VA, based on data from the 1992 Survey of Veterans. CBO estimates that VA would spend an additional \$1,300 annually for these veterans.

Section 102 also would provide for additional payments of disability compensation and DIC that would constitute direct spending. The estimates of those costs are discussed above under the heading "Direct Spending."

Children with birth defects.—Under current law, certain children with spina bifida are eligible for benefits from VA. Section 162 would extend those benefits to certain children with other birth defects. CBO estimates that fewer than 200 people would be eligible for benefits under the bill, based on information from VA and adjustments for mortality and the severity of the birth defect. Given

the potential for severe birth defects, we estimate that the cost of providing health care to those individuals could total up to \$12,000 per person. As with spina bifida patients, new beneficiaries would not need to receive their health care at VA facilities, but could instead be reimbursed by VA for care received outside of the VA system. Because the health care need not be received at VA facilities, CBO expects that roughly 50 percent of those eligible would use this benefit. (If the care had to be received at VA facilities, we expect that this percentage would be significantly lower.) CBO estimates that providing health care to these people would cost \$1 million a year, assuming appropriation of the necessary amounts.

This section also provides for a monthly allowance that would constitute direct spending. The estimates of those costs are discussed above under the heading "Direct Spending."

General Operating Expenses.—CBO estimates that implementing S. 1810 would increase VA operating expenses by \$4 million in 2001 and \$34 million over the 2001–2005 period. Section 101 would require VA to provide more assistance than it does under current law to veterans who file claims for benefits. The bill would require VA to pursue certain records that are necessary to establish a claim, to inform veterans of any information the VA needs to adjudicate an incomplete claim, pursue information the veteran authorizes or requests the VA to obtain, and inform the veteran when the department cannot locate information pertinent to a claim.

If relevant for claims to disability compensation, VA would be required to obtain pertinent records, including a veterans' medical record from military service, his or her service record, any records of treatment provided by the VA, and any other relevant materials available from other federal agencies. The bill would also require VA to provide medical exams to veterans who need them to substantiate their claims. Also, the bill would allow any claimant who had a claim denied since July 14, 1999, to resubmit it if the claim was denied because of insufficient evidence.

CBO expects that, in order to carry out its responsibilities under section 101, VA would have to hire additional claims adjudicators. Based on information from the VA, CBO assumes that 110 additional claims adjudicators would be hired at an estimated cost of \$3 million in salary and benefits in 2001 and about \$7 million annually thereafter. CBO estimates that training would cost about \$1 million a year and that one-time costs associated with expanding the claims processing staff would be about \$700,000 in 2001. The cost of providing medical exams is covered under current law. CBO does not expect a significant increase in benefit payments as a result of this bill.

Construction of Medical Facilities.—Section 303 would authorize appropriations of \$50.1 million to complete three projects that are specified in the bill and to continue certain projects authorized under current law. CBO estimates that those funds would be spent over the next five years, with most of the outlays occurring from 2002 through 2004.

Dose Reconstruction Review.—Section 171 would require DoD to enter into a contract with the National Academy of Sciences (NAS) to carry out periodic reviews of the dose reconstruction program, which is used to estimate the amount of radiation to which certain veterans may have been exposed. Between 1945 and 1962 about

200,000 active military personnel participated in atmospheric nuclear tests, and some were exposed to potentially harmful doses of radiation. For certain types of cancers not automatically presumed linked to radiation exposure, dose reconstruction is used to adjudicate compensation benefits. This section would require NAS to review the current dose reconstruction program, over a period of not more than 24 months, to determine its accuracy. Based on information provided by NAS, CBO estimates that the two-year study would cost less than \$1 million.

Pay-as-you-go Considerations: 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.

TABLE 4. ESTIMATED IMPACT OF S. 1810 ON DIRECT SPENDING AND RECEIPTS

	By fiscal year, in millions of dollars										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	44	81	152	176	198	193	186	208	214	217
Changes in receipts	Not applicable										

Intergovernmental and private-sector impact: S. 1810 contains no intergovernmental or private-sector mandates as defined in UMRA. A provision of the bill that would authorize the conveyance of the Fort Lyon medical facility would place certain conditions on the state of Colorado. Any costs to the state as a result of those conditions would be incurred voluntarily. The remaining provisions of the bill would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Veterans Home Loans: Sunita D'Monte; Readjustment Benefits: Sarah T. Jennings; Disability Compensation: Michelle Patterson; and Veterans Medical Programs: Sam Papenfuss.

Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins.

Impact on the Private Sector: Rachel Schmidt.

Estimate approved by: Peter H. Fontaine, 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 July 27, 2000, meeting. On that date, the Committee, by unanimous voice vote, ordered S. 1810, as amended, reported favorably to the Senate.

AGENCY REPORT

On July 20, 2000, the Honorable Joseph Thompson, Under Secretary for Benefits, Department of Veterans Affairs, appeared before the Committee and submitted testimony on, among other things, a draft bill to increase, effective as of December 1, 2000, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans. Excerpts from this statement are reprinted below:

STATEMENT OF JOSEPH THOMPSON, UNDER SECRETARY FOR
BENEFITS, DEPARTMENT OF VETERANS AFFAIRS, BEFORE
THE COMMITTEE ON VETERANS' AFFAIRS, UNITED STATES
SENATE, JULY 20, 2000

INTRODUCTION

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on the Department of Veterans Affairs (sic) disability claims processing. I am pleased to be here with you to provide a status report on the adjudication of these claims and to discuss the efforts the Department has made to improve claims processing.

* * * * *

LEGISLATION

Mr. Chairman, you have also asked that we comment on several bills, including S. 1810, S. 2264, S. 2544, S. 2637, S. 2827, and 3 draft bills which your staff provided late last week. In view of the short amount of time available for the formulation of this testimony, we are unable to present the Department's views with respect to certain provisions of the bills and draft proposals. However, we will be pleased to provide our formal written views concerning them at a later date once the necessary executive branch coordination is completed.

* * * * *

S. 1810 and Section 101 of Draft Bill [O:/ARM/
ARM00.997—July 13, 2000]—Duty to Assist

S. 1810 would amend 38 U.S.C. § 5107(a) to clarify that VA has a duty to assist all claimants in developing the facts pertinent to their claims. This would countermand precedent decisions of the United States Court of Appeals for Veterans Claims and the United States Court of Ap-

peals for the Federal Circuit which have held that VA is required to assist only those claimants who have shown that their claims are “well grounded,” as that term has been defined by the courts.

Section 101 of the draft bill would, similarly, eliminate the well-grounded claim threshold for VA’s duty to assist. That section would also specify a number of actions VA would be required to take to carry out its duty to assist, including special requirements in claims for service-connected disability compensation, the most frequently claimed VA benefit. The required actions would include informing claimants of the type of evidence that would be helpful to their claims, obtaining service medical records, VA treatment records, and other records which claimants have adequately identified and authorized VA to obtain, and providing medical examinations or medical opinions when necessary.

Section 101 also contains a provision which would permit readjudication of any claim that was denied as being not well grounded on or after July 14, 1999, the date of the CAVC’s decision in *Morton v. West*, 12 Vet. App. 477 (1999). In *Morton*, the CAVC held that VA cannot assist a claimant whose claim is not well grounded. As a result of that decision, VA has had to greatly restrict assistance to claimants whose claims are not well grounded.

VA supports the purpose of both proposals which is to clarify VA’s duty to assist claimants in processing claims. However, we believe that a more detailed approach, such as that reflected in section 101 of the draft bill, is preferable because it would establish greater certainty concerning the requirements of VA’s duty and would limit the need for judicial interpretation of these important provisions. Additionally, because this approach would provide a clear statutory framework for the claim-development process, VA would be able to implement those provisions more quickly and efficiently, without the need to rely extensively upon future rule making to establish uniform procedures for assisting claimants.

However, the details in the language used in the draft bill could have an enormous impact on the resources of the Department. Once we have had more time to consider the language of the draft bill, we will be pleased to provide our formal views regarding the duty to assist provisions contained in it, as well as an estimate of the effect of this language on VBA’s administrative expenses in the General Operating Expenses appropriation.

S. 2544 and Draft Bill [O:/ARM/ARM00.881—June 16, 2000]—Women’s Health Issues

S. 2544—Benefits for Children of Women Vietnam Veterans Who Were Born With Certain Birth Defects and Section 2 of Draft Bill

Mr. Chairman, you also asked that we provide comment regarding S. 2544, 106th Congress, the “Children of

Women Vietnam Veterans' Benefits Act of 2000," a bill to provide compensation and benefits to children of women Vietnam veterans who were born with certain birth defects. VA strongly supports the enactment of this bill.

Background

In March 1999, the Secretary of Veterans Affairs appointed a task force, headed by the Under Secretary for Health, to review a report issued by the National Academy of Sciences' (NAS) Institute of Medicine (IOM) in February entitled "Veterans and Agent Orange: Update 1998" and to make appropriate recommendations to the Secretary regarding matters addressed in the report. The task force established a working group of knowledgeable individuals from within VA and from other Federal organizations who reviewed and analyzed the report and solicited input from veterans service organizations and other interested groups.

The working group also reviewed a report, issued in October 1998, of a study conducted by VA's Environmental Epidemiology Service entitled the "Women Vietnam Veterans Reproductive Outcomes Health Study." This study was not addressed in the NAS report. This study represented the last of three epidemiologic studies of women Vietnam veterans conducted in response to a congressional mandate for a comprehensive study of any long-term adverse health effects they may have suffered. In the VA study, a total of 4,140 women Vietnam veterans surviving as of January 1, 1992, and an equal number of women who served during the Vietnam-era but not in Vietnam, were identified for a structured telephone health interview. Overall, almost 92 percent of these women were located and 90 percent of those contacted participated in the study, resulting in a response rate of 82 percent.

A multivariate analysis of survey results found no appreciable difference in reported rates of miscarriage, still-birth, low birth weight, pre-term births, or infant deaths between the Vietnam veterans and the Vietnam-era veterans who did not serve in Vietnam. However, the study identified a statistically significant increase in birth defects (10.5 percent vs. 7.0 percent) and severe birth defects (7.7 percent vs. 5.8 percent) in the offspring of women Vietnam veterans in comparison to the offspring of other women Vietnam-era veterans. The study found that the risk of a woman Vietnam veteran having a child with birth defects was significantly elevated even after adjustment for age, demographic variables, military characteristics, and smoking and alcohol consumption of the mothers.

Following its review, the task force recommended that the VA study be subjected to additional peer review and submitted to a scientific journal for publication. This study has been accepted for publication; its expected release date is September 2000. In addition, the task force recommended that the Secretary seek statutory authority to provide health care and other benefits to women Vietnam veterans' offspring with birth defects. The Secretary ap-

proved both recommendations, and, on July 23, 1999, advised you that VA was in the process of developing legislation to benefit these individuals. On March 7, 2000, as a technical service, VA's General Counsel provided Senator John D. Rockefeller IV with draft bill language upon which S. 2544 is based.

Provisions of S. 2544

S. 2544 would restructure existing provisions in chapter 18 of title 38, United States Code, and add a new subchapter authorizing benefits for women Vietnam veterans' children who were born with certain birth defects. This subchapter would apply with respect to birth defects, other than spina bifida, which result in permanent physical or mental disability, except for birth defects determined by the Secretary to result from familial disorders, birth-related injuries, or fetal or neonatal infirmities with well-established causes. In addition, the provision of health care or other benefits under this subchapter would not be authorized if evidence establishes that a particular birth defect suffered by an individual resulted from a cause other than the mother's service in Vietnam.

The Secretary would be required to identify, within one year after the date of enactment of the Act, the birth defects associated with service of women Vietnam veterans in the Republic of Vietnam during the Vietnam era and to promulgate regulations delineating the birth defects identified. Certain categories of birth defects would be excluded because of a likelihood that they result from inherited disorders rather than as the result of the mothers' service in Vietnam. Similarly, defects which result from causes such as birth-related conditions, or fetal or neonatal infirmities, would also be excluded.

A key element of S. 2544 is authorization for the provision of comprehensive medical care, which could be provided directly by VA or by contract with non-VA providers. Second, because of the likelihood that individuals who suffer from certain severely disabling birth defects will encounter difficulties in pursuing vocational goals, the bill authorizes the Secretary to assist these individuals through the provision of vocational training benefits. Finally, in recognition of the additional financial needs likely to face persons suffering from disabling birth defects, the bill authorizes the Secretary to provide these individuals with a monetary allowance to help defray additional expenses associated with these disabilities. The Secretary would be required to base the amount of the allowance on each child's level of disability, in accordance with a schedule to be established for this purpose. VA would pay the allowance based upon four levels of disability, resulting in monthly payments of \$100 for the lowest level of disability, \$214 for the lower intermediate level of disability, \$743 for the next higher intermediate level of disability, and \$1,272 for the highest level of disability. The dollar amounts for the upper three levels of disability would be equivalent to

the three levels of allowance currently payable under section 1805 of title 38, United States Code, to children of Vietnam veterans who suffer from spina bifida. The lower dollar amount of \$100 would provide a limited benefit consistent with a level of disability that does not result in a significant economic burden. The legislation would be effective one year after the date of its enactment, in order to allow time for establishment of implementing regulations.

VA's Position

VA does not have authority to provide health care or other benefits to the women Vietnam veterans' children who suffer from birth defects other than spina bifida. Thus, enabling legislation is necessary to address the needs of these children. We believe the legislative model adopted by Congress in Pub. L. No. 104-204 for the benefit of Vietnam veterans' children born with spina bifida, which is reflected in the provisions of S. 2544, is an appropriate one to follow in this instance. As was the case with Vietnam veterans' children who suffer from spina bifida, the provision of assistance to women Vietnam veterans' children who suffer other birth defects would be an appropriate extension of the principle of providing benefits for disabilities that are incurred or aggravated as a result of service on active duty in the Armed Forces of the United States. Accordingly, we strongly support enactment of this legislation.

S. 2544 is subject to the PAYGO requirements of the OBRA and, if enacted, would result in benefit costs of \$1.7 million in Fiscal Year (FY) 2001 and \$17 million during FYs 2001-2005.

Section 2 of the draft bill contains provisions similar to S. 2544.

Special monthly compensation for service-connected loss of one or both breasts due to mastectomy

Section 3 of the draft bill would authorize special monthly compensation under 38 U.S.C. § 1114(k) for female veterans who have suffered the service-connected loss of one or both breasts (including loss by mastectomy). VA supports this provision in principle, but would prefer that no distinction be made between male and female veterans.

Section 1114(k) of title 38, United States Code, authorizes a special rate of compensation (the "k" rate) if a veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction. Under current section 1114(k), a monthly award of \$76 is payable, generally, for each such loss or loss of use. This special monthly compensation is payable in addition to the compensation pay-

able by reason of percentage disability ratings assigned under the rating schedule.

Under the current schedule for rating disabilities, the disability suffered following surgical removal of one breast by radical mastectomy is assigned a 50% disability rating. (38 C.F.R. §4.116). The resulting disability following removal of both breasts by radical mastectomy is currently assigned an 80% disability rating. The loss of one breast by modified radical mastectomy is rated 40% disabling, and the removal of both breasts by modified radical mastectomy is rated 60% disabling. A veteran is also compensated for at least six months at the total-disability level following the cessation of any surgical procedure to treat breast cancer.

Special monthly compensation is currently authorized for certain anatomical losses or losses of use for which the rating schedule, which is based solely on impairment of earning capacity, is considered inadequate for compensation purposes. The statute recognizes that the loss of a hand or foot, for example, or loss of a creative organ, involves loss of bodily integrity which may negatively affect self-image and precipitate considerable emotional distress.

The service-connected radical or modified-radical mastectomies covered by section 3 involve loss of bodily integrity and associated emotional trauma to a degree that is at least comparable to the removal of a single testicle, for example, for which special monthly compensation is currently payable regardless of its effect on a veteran's procreative ability and regardless of whether the veteran is still of procreative age. As a matter of simple equity, these mastectomies warrant equal compensation for the veterans who undergo them.

Section 3 of the draft bill would be subject to the PAYGO requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA) and, if enacted, would increase direct spending. According to our preliminary estimates, enactment of section 3 (with the inclusion of male veterans) would increase benefits cost by less than \$500,000 in FY 2001 and \$2.5 million over the 2001–2005 period.

Omnibus Draft Bill [O:/ARM/ARM00.997—July 13, 2000]

VA does not have positions regarding several provisions of the draft bill. However, we will be pleased to provide our formal written views concerning them at a later date once the necessary executive branch coordination is completed. Those provisions for which we have developed positions follow:

Title I—Compensation and Pension Matters

Our comments on section 101 of the draft bill, regarding VA's duty to assist veterans in the development of their claims, are noted above.

Title VII—Construction and Facilities Matters

Sections 701 and 702 of the draft bill would authorize the Secretary of Veterans Affairs to carry out two major medical facility projects for fiscal year 2001 using \$40,600,000 for the Construction, Major Projects account.

VA is not opposed to these provisions because they would authorize funding for the two major medical facility construction projects located in Palo Alto, California and in Murfreesboro, Tennessee as reflected in the President's budget. Last year, Congress appropriated, but did not authorize \$14,000,000 in fiscal year 2000 funding for the Murfreesboro, Tennessee project. Accordingly, Section 702(a), which authorizes the appropriations, needs to be changed to specifically authorize \$26,600,000 for fiscal year 2001 for the Palo Alto California project and \$14,000,000 for fiscal year 2000 for the Murfreesboro Tennessee project. Sections 702(a) and (b) refer to the authorization of funds for fiscal year 2001. This language needs to be extended an additional year for fiscal year 2002. With this additional language, major construction projects authorized in fiscal year 2001 but not carried out until fiscal year 2002 would not have to be authorized again.

S. 2264—Establishment of Position of Advisor on PAs

Section 2 of S. 2264 would establish a position of Advisor on Physician Assistants (PAs) within the Office of the Under Secretary for Health. Section 2 would also require such Advisor to advise the Under Secretary for Health on matters concerning the optimal use of physician assistants by the Veterans Health Administration (VHA) and the feasibility of establishing clinical privileges and practice areas for this specialty. In addition, this section would require the Advisor to (1) develop initiatives to assist the Under Secretary for Health in using the full range of clinical capabilities of physician assistants and (2) advise the Under Secretary for Health on policies affecting the employment of such personnel by VHA.

VHA does not consider it necessary to enact legislation to require a PA advisor in Headquarters. The Chief Consultant, Primary and Ambulatory Care who is in direct contact with the Physician Assistant Field Advisory Group (PAFAG) currently represents PAs in VHA. The composition of the PAFAG consists of four PAs and two physicians. Its chairperson serves as program advisor to the Chief Consultant for Primary and Ambulatory Care. Further, one PA from that advisory group participates in Primary and Ambulatory Care office conferences and is routinely included in office communications and decisions. The current chairperson of the advisory group, Rebecca Goldsmith, PA-C, has served on the Under Secretary for Health's Work Group tasked with Exploring Internal Practice Barriers for Advanced Practice Nurses, Clinical Pharmacy Specialists and Physician Assistants. The work group identified barriers to hiring non-physician health care pro-

viders in VHA. Ms. Goldsmith also serves as the Co-Chair of the Multidisciplinary Practice Advisory Council. This group is charged with implementing changes to overcome the barriers to hiring non-physician health providers. VHA has promulgated the “PA Employment Handbook” which has provided guidance to VHA health care facilities when hiring PAs and the “PA Practice Issues Handbook,” which is an educational tool that assists health care managers to understand the role of PAs in VHA. The work of Ms. Goldsmith and others on the PAFAG has helped VHA health facilities to recruit and retain PAs. The relationship between the Chief Consultant, Primary and Ambulatory Care and the PAFAG has worked well in supporting the PA Program.

S. 2637—Miles City, MT Land Transfer and S. 2827—Ft. Lyon, CO Land Transfer

S. 2637 would require VA, as soon as practicable, to transfer ownership of the Miles City VA Medical Center complex to Custer County, Montana. VA has not developed a position with respect to the transfer of this facility, but we will be pleased to provide our formal written views at a later date. Section 1 of S. 2827 would authorize VA to transfer the Ft. Lyon VA Medical Center to the State of Colorado for the purpose of establishing a correctional facility. VA has not developed a position with respect to this bill; however, we will be pleased to provide our formal written views at a later date.

This concludes my formal testimony.

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 10—ARMED FORCES

* * * * *

Subtitle E—Reserve Components

* * * * *

PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

* * * * *

CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

* * * * *

§ 16132. Eligibility for educational assistance

(a) A person who—

(1) * * *

[(2) before completing initial active duty for training has completed the requirements of a secondary school diploma (or an equivalency certificate), or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistment or extension;] (2) *before applying for benefits under this section, has completed the requirements of a secondary school diploma (or an equivalency certificate);*

* * * * *

TITLE 38, UNITED STATES CODE

* * * * *

CHAPTERS OF TITLE 38

* * * * *

PART II—GENERAL BENEFITS

Chap.
11. * * *

* * * * *	
[18. Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida	1801]
18. Benefits for Children of Vietnam Veterans	1801

* * * * *

PART I—GENERAL PROVISIONS

CHAPTER 1—GENERAL

* * * * *

§ 107. Certain service deemed not to be active service

(a) Service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, shall not be deemed to have been active military, naval, or air service for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of

such person or the service of any other person in the Armed Forces, except benefits under—

(1) * * *

* * * * *

(3) chapters 11, 13 (except section 1312(a)), and 23 of this title[.], and chapter 24 of this title to the extent provided for in section 2402(8) of this title.

* * * * *

PART II—GENERAL BENEFITS

Chap.

11. * * *

* * * * *	
[18. Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida	1801]
18. Benefits for Children of Vietnam Veterans	1801
* * * * *	

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * *

Subchapter II—Wartime Disability Compensation

* * * * *

§ 1112. Presumptions relating to certain diseases and disabilities

(a) * * *

* * * * *

(c)(1) * * *

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

(A) * * *

* * * * *

(P) Lung cancer.

(Q) Colon cancer.

(R) Tumors of the brain and central nervous system.

(S) Ovarian cancer.

* * * * *

§ 1114. Rates of wartime disability compensation

For the purposes of section 1110 of this title—

(a) * * *

* * * * *

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, [or has suffered] *has suffered* complete organic aphonia with constant inability to communicate by speech, or deafness of both

ears, having absence of air and bone conduction, or, in the case of a female veteran, has suffered the anatomical loss of one or both breasts (including loss by mastectomy), the rate of compensation therefor shall be \$76 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed \$2,533 per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by \$76 per month for each such loss or loss of use, but in no event to exceed \$3,553 per month;

* * * * *

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

* * * * *

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

* * * * *

§ 1722A. Copayment for medications

(a)(1) * * *

* * * * *

(3) Paragraph (1) does not apply—

(A) * * *

[(B) to a veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title.] (B) to a veteran who is considered by the Secretary to be unable to defray the expenses of necessary care under section 1722 of this title.

* * * * *

[CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA]

CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS

Subchapter I—Children of Vietnam Veterans Born With Spina Bifida

Sec. 1801. * * *

* * * * *

[1806. Applicability of certain administrative provisions]

Subchapter II—Children of Female Vietnam Veterans Born With Certain Birth Defects

- 1811. Definitions.
- 1812. Birth defects covered.
- 1813. Benefits and assistance.

“Subchapter III—Administrative Matters

1821. *Applicability of certain administrative provisions.*
1822. *Treatment of receipt of monetary allowance on other benefits.*

Subchapter I—Children of Vietnam Veterans Born With Spina Bifida

§ 1801. Definitions

For the purposes of [this chapter] this subchapter—

(1) * * *

* * * * *

§ 1802. Spina bifida conditions covered

【This chapter】 *This subchapter* applies with respect to all forms and manifestations of spina bifida except spina bifida occulta.

* * * * *

§ 1805. Monetary allowance

(a) The Secretary shall pay a monthly allowance under 【this chapter】 *this section* to any child of a Vietnam veteran for any disability resulting from spina bifida suffered by such child.

* * * * *

【(c) Notwithstanding any other provision of law, receipt by a child of an allowance under this section shall not impair, infringe, or otherwise affect the right of the child to receive any other benefit to which the child may otherwise be entitled under any law administered by the Secretary, nor shall receipt of such an allowance impair, infringe, or otherwise affect the right of any individual to receive any benefit to which the individual is entitled under any law administered by the Secretary that is based on the child’s relationship to the individual.

【(d) Notwithstanding any other provision of law, the allowance paid to a child under this section shall not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program.】

【§ 1806. Repealed】

SUBCHAPTER II—CHILDREN OF FEMALE VIETNAM VETERANS BORN WITH CERTAIN BIRTH DEFECTS

§ 1811. Definitions

In this subchapter:

(1) *The term “child”, with respect to a female Vietnam veteran, means a natural child of the female Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the female Vietnam veteran first entered the Republic of Vietnam during the Vietnam era (as specified in section 101(29)(A) of this title).*

(2) *The term “covered birth defect” means each birth defect identified by the Secretary under section 1812 of this title.*

(3) *The term “female Vietnam veteran” means any female individual who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era (as so speci-*

fied), without regard to the characterization of the individual's service.

§ 1812. Birth defects covered

(a) *IDENTIFICATION.*—Subject to subsection (b), the Secretary shall identify the birth defects of children of female Vietnam veterans that—

(1) are associated with the service of female Vietnam veterans in the Republic of Vietnam during the Vietnam era (as specified in section 101(29)(A) of this title); and

(2) result in the permanent physical or mental disability of such children.

(b) *LIMITATIONS.*—(1) The birth defects identified under subsection (a) may not include birth defects resulting from the following:

(A) A familial disorder.

(B) A birth-related injury.

(C) A fetal or neonatal infirmity with well-established causes.

(2) The birth defects identified under subsection (a) may not include spina bifida.

(c) *LIST.*—The Secretary shall prescribe in regulations a list of the birth defects identified under subsection (a).

§ 1813. Benefits and assistance

(a) *HEALTH CARE.*—(1) The Secretary shall provide a child of a female Vietnam veteran who was born with a covered birth defect such health care as the Secretary determines is needed by the child for such birth defect or any disability that is associated with such birth defect.

(2) The Secretary may provide health care under this subsection directly or by contract or other arrangement with a health care provider.

(3) For purposes of this subsection, the definitions in section 1803(c) of this title shall apply with respect to the provision of health care under this subsection, except that for such purposes—

(A) the reference to ‘specialized spina bifida clinic’ in paragraph (2) of such section 1803(c) shall be treated as a reference to a specialized clinic treating the birth defect concerned under this subsection; and

(B) the reference to “vocational training under section 1804 of this title” in paragraph (8) of such section 1803(c) shall be treated as a reference to vocational training under subsection (b).

(b) *VOCATIONAL TRAINING.*—(1) The Secretary may provide a program of vocational training to a child of a female Vietnam veteran who was born with a covered birth defect if the Secretary determines that the achievement of a vocational goal by the child is reasonably feasible.

(2) Subsections (b) through (e) of section 1804 of this title shall apply with respect to any program of vocational training provided under paragraph (1).

(c) *MONETARY ALLOWANCE.*—(1) The Secretary shall pay a monthly allowance to any child of a female Vietnam veteran who was born with a covered birth defect for any disability resulting from such birth defect.

(2) *The amount of the monthly allowance paid under this subsection shall be based on the degree of disability suffered by the child concerned, as determined in accordance with a schedule for rating disabilities resulting from covered birth defects that is prescribed by the Secretary.*

(3) *In prescribing a schedule for rating disabilities under paragraph (2), the Secretary shall establish four levels of disability upon which the amount of the monthly allowance under this subsection shall be based.*

(4) *The amount of the monthly allowance paid under this subsection shall be as follows:*

(A) *In the case of a child suffering from the lowest level of disability prescribed in the schedule for rating disabilities under this subsection, \$100.*

(B) *In the case of a child suffering from the lower intermediate level of disability prescribed in the schedule for rating disabilities under this subsection, the greater of—*

(i) *\$214; or*

(ii) *the monthly amount payable under section 1805(b)(3) of this title for the lowest level of disability prescribed for purposes of that section.*

(C) *In the case of a child suffering from the higher intermediate level of disability prescribed in the schedule for rating disabilities under this subsection, the greater of—*

(i) *\$743; or*

(ii) *the monthly amount payable under section 1805(b)(3) of this title for the intermediate level of disability prescribed for purposes of that section.*

(D) *In the case of a child suffering from the highest level of disability prescribed in the schedule for rating disabilities under this subsection, the greater of—*

(i) *\$1,272; or*

(ii) *the monthly amount payable under section 1805(b)(3) of this title for the highest level of disability prescribed for purposes of that section.*

(5) *Amounts under subparagraphs (A), (B)(i), (C)(i), and (D)(i) of paragraph (4) shall be subject to adjustment from time to time under section 5312 of this title.*

(6) *Subsections (c) and (d) of section 1805 of this title shall apply with respect to any monthly allowance paid under this subsection.*

(d) **GENERAL LIMITATIONS ON AVAILABILITY OF BENEFITS AND ASSISTANCE.**—(1) *No individual receiving benefits or assistance under this section may receive any benefits or assistance under subchapter I of this chapter.*

(2) *In any case where affirmative evidence establishes that the covered birth defect of a child results from a cause other than the active military, naval, or air service in the Republic of Vietnam of the female Vietnam veteran who is the mother of the child, no benefits or assistance may be provided the child under this section.*

(e) **REGULATIONS.**—*The Secretary shall prescribe regulations for purposes of the administration of the provisions of this section.*

SUBCHAPTER III—ADMINISTRATIVE MATTERS

§ 1821. Applicability of certain administrative provisions

The provisions of sections 5101(c), 5110(a), (b)(2), (g), and (i), 5111, and 5112(a), (b)(1), (b)(6), (b)(9), and (b)(10) of this title shall apply with respect to benefits and assistance under this chapter in the same manner as such provisions apply to veterans' disability compensation.

§ 1822. Treatment of receipt of monetary allowance on other benefits

(a) Notwithstanding any other provision of law, receipt by an individual of a monetary allowance under this chapter shall not impair, infringe, or otherwise affect the right of the individual to receive any other benefit to which the individual is otherwise entitled under any law administered by the Secretary.

(b) Notwithstanding any other provision of law, receipt by an individual of a monetary allowance under this chapter shall not impair, infringe, or otherwise affect the right of any other individual to receive any benefit to which such other individual is entitled under any law administered by the Secretary based on the relationship of such other individual to the individual who receives such monetary allowance.

(c) Notwithstanding any other provision of law, a monetary allowance paid an individual under this chapter shall not be considered as income or resources in determining eligibility for or the amount of benefits under any Federal or Federally-assisted program.

* * * * *

CHAPTER 19—INSURANCE

Subchapter I—National Service Life Insurance

Sec.
1901. * * *
* * * * *
1967. * * *
1967A. *Insurance of dependents.*
* * * * *

Subchapter I—National Service Life Insurance

* * * * *

§ 1922. Service disabled veterans' insurance

(a) * * *
* * * * *

(c) The premium rate of any term insurance issued under this section shall not exceed the renewal age 70 premium rate.

* * * * *

Subchapter III—Servicemembers' Group Life Insurance

§ 1965. Definitions

For the purpose of this subchapter—

(1) * * *

* * * * *

(10) *The term ‘insurable dependent’, with respect to a member, means the following:*

(A) *The member’s spouse.*

(B) *A child of the member for so long as the child is unmarried and the member is providing over 50 percent of the support of the child.*

* * * * *

§ 1967. Persons insured; amount

(a) Any policy of insurance purchased by the Secretary under section 1966 of this title shall automatically insure against death—

(1) * * *

(2) any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 1965(5)(B) of this title; in the amount of **[\$200,000]** *\$250,000*, unless such member elects in writing (A) not to be insured under this subchapter, or (B) to be insured in an amount less than **[\$200,000]** *\$250,000* that is evenly divisible by \$10,000. The insurance shall be effective the first day of active duty or active duty for training, or the beginning of a period of inactive duty training scheduled in advance by competent authority, or the first day a member of the Ready Reserve meets the qualifications set forth in section 1965(5)(B) of this title, or the date certified by the Secretary to the Secretary concerned as the date Servicemembers’ Group Life Insurance under this subchapter for the class or group concerned takes effect, whichever is the later date.

* * * * *

(c) If any member elects not to be insured under this subchapter or to be insured in any amount less than **[\$200,000]** *\$250,000*, such member may thereafter be insured under this subchapter in the amount of **[\$200,000]** *\$250,000* or any lesser amount evenly divisible by \$10,000 upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Secretary. Any former member insured under Veterans’ Group Life Insurance who again becomes eligible for Servicemembers’ Group Life Insurance and declines such coverage solely for the purpose of maintaining such member’s Veterans’ Group Life Insurance in effect shall upon termination of coverage under Veterans’ Group Life Insurance be automatically insured under Servicemembers’ Group Life Insurance, if otherwise eligible therefor.

(d) Whenever a member has the opportunity to make an election under subsection (a) not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount of **[\$200,000]** *\$250,000*, and at such other times periodically thereafter as the Secretary concerned considers appropriate, the Secretary concerned shall furnish to the member general information concerning life insurance. Such information shall include—

(1) * * *

* * * * *

§ 1967A. Insurance of dependents

(a) Subject to the provisions of this section, any policy of insurance purchased by the Secretary under section 1966 of this title shall also automatically insure against death each insurable dependent of a member.

(b)(1) A member insurable under this subchapter may make an election not to insure a spouse under this subchapter.

(2) Except as provided in subsection (c)(3), a spouse covered by an election under paragraph (1) is not insured under this section.

(3) Except as otherwise provided under this section, no insurable dependent of a member is insured under this section unless the member is insured under this subchapter.

(c)(1) Subject to an election under paragraph (2), the amount for which a person insured under this section is insured under this subchapter is as follows:

(A) In the case of a member's spouse, the lesser of—

- (i) the amount for which the member is insured under this subchapter; or
- (ii) \$50,000.

(B) In the case of a member's child, \$5,000.

(2) A member may elect in writing to insure the member's spouse in an amount less than the amount provided for under paragraph (1)(A). The amount of insurance so elected shall be evenly divisible by \$10,000.

(3) If a dependent spouse eligible for insurance under this section is not so insured, or is insured for less than the maximum amount provided for under subparagraph (A) of paragraph (1) by reason of an election made by the member concerned under paragraph (2), the spouse may thereafter be insured under this section in the maximum amount or any lesser amount elected as provided for in paragraph (2) upon written application by the member, proof of good health of the spouse, and compliance with such other terms and conditions as may be prescribed by the Secretary.

(d)(1) Insurance coverage under this section with respect to an insurable dependent of the member shall cease—

(A) upon election made in writing by the member to terminate the coverage; or

(B) the date that is 120 days after the earlier of—

- (i) the date of the member's death;
- (ii) the date of termination of the insurance on the member under this subchapter; or
- (iii) the date on which the insurable dependent of the member no longer meets the criteria applicable to an insurable dependent as specified in section 1965(10) of this title.

(2)(A) At the election of an insured spouse whose insurance under this subchapter is terminated under paragraph (1), the insurance shall be converted to an individual policy of insurance upon written application for conversion made to the participating company selected by the insured spouse and the payment of the required premiums.

(B) The individual policy of insurance of an insured spouse making an election under subparagraph (A) shall become effective on the

date of the termination of the spouse's insurance under paragraph (1).

(C) The second, fourth, and fifth sentences of section 1977(e) of this title shall apply with respect to the insurance of an insured spouse under this paragraph.

(e)(1) During any period in which the spouse of a member is insured under this section, there shall be deducted each month from the member's basic or other pay, or otherwise collected from the member, until the member's separation or release from active duty an amount determined by the Secretary (which shall be the same for all such members) as the premium allocable to the pay period for providing that insurance coverage.

(2)(A) The Secretary shall determine the premium amounts to be charged for insurance coverage for spouses of members under this section.

(B) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

(C) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary in advance of that policy year.

(3) Any amounts deducted or collected under paragraph (1), together with the income derived from any dividends or premium rate adjustments received from insurers with respect to insurance under this section, shall be deposited to the credit of the revolving fund established by section 1969(d) of this title, and shall be available for payment and use in accordance with the provisions of that section.

(f) Any amount of insurance in force on an insurable dependent of a member under this section on the date of the dependent's death shall be paid, upon the establishment of a valid claim therefor, to the member or, in the event of the member's death before payment to the member can be made, then to the person or persons entitled to receive payment of the proceeds of insurance on the member's life under section 1970 of this title.

* * * * *

Subchapter III—Servicemembers' Group Life Insurance

* * * * *

§ 1977. Veterans' Group Life Insurance

(a)(1) Veterans' Group Life Insurance shall be issued in the amounts specified in section 1967(a) of this title. In the case of any individual, the amount of Veterans' Group Life Insurance may not exceed the amount of Servicemembers' Group Life Insurance coverage continued in force after the expiration of the period of duty or travel under section 1967(b) or 1968(a) of this title. No person may carry a combined amount of Servicemembers' Group Life Insurance and Veterans' Group Life Insurance in excess of **[\$200,000] \$250,000** at any one time.

(2) If any person insured under Veterans' Group Life Insurance again becomes insured under Servicemembers' Group Life Insur-

ance but dies before terminating or converting such person's Veterans' Group Insurance, Veterans' Group Life Insurance shall be payable only if such person is insured for less than ~~【\$200,000】~~ \$250,000 under Servicemembers' Group Life Insurance, and then only in an amount which, when added to the amount of Servicemembers' Group Life Insurance payable, does not exceed ~~【\$200,000】~~ \$250,000.

* * * * *

**CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR
DISABLED VETERANS**

* * * * *

§ 2102. Limitations on assistance furnished

(a) * * *

* * * * *

(c) The amount of assistance afforded under subsection (a) for a veteran authorized assistance by section 2101(a) of this title shall not be reduced by reason that title to the housing unit, which is vested in the veteran, is also vested in any other person, if the veteran resides in the housing unit.

* * * * *

CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

* * * * *

§ 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) * * *

* * * * *

*(8) Any individual whose service is described in section 107(a) of this title if such individual at the time of death—
(A) was a naturalized citizen of the United States; and
(B) resided in the United States.*

* * * * *

**PART III—READJUSTMENT AND RELATED
BENEFITS**

**CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL
ASSISTANCE PROGRAM**

* * * * *

Subchapter II—Basic Educational Assistance

§ 3011. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (c) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

[(i) who (I) serves, as the individual's initial obligated period of active duty, at least three years of continuous active duty in the Armed Forces, or (II) in the case of an individual whose initial period of active duty is less than three years, serves at least two years of continuous active duty in the Armed Forces; or]

(i) who serves an obligated period of active duty of at least two years of continuous active duty in the Armed Forces; or

(ii) who serves in the Armed Forces and is discharged or released from active duty (I) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy; (II) for the convenience of the Government, [in the case of an individual who completed not less than 20 months of continuous active duty, if the initial obligated period of active duty of the individual was less than three years, or in the case of an individual who completed not less than 30 months of continuous active duty if the initial obligated period of active duty of the individual was at least three years] *if, in the case of an individual with an obligated period of service of two years, the individual completes not less than 20 months of continuous active duty under that period of obligated service, or, in the case of an individual with an obligated period of service of three years, the individual completes not less than 30 months of continuous active duty under that period of obligated service;* or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the

Coast Guard when it is not operating as a service in the Navy; or

* * * * *

[(2) who, except as provided in subsection (e) of this section, completed the requirements of a secondary school diploma (or equivalency certificate) not later than—

[(A) the original ending date of the individual's initial obligated period of active duty in the case of an individual described in clause (1)(A) of this subsection, regardless of whether the individual is discharged or released from active duty on such date;

[(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection; except that (i) an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed (or otherwise received academic credit for) the equivalent of such 12 semester hours before the end of the individual's initial obligated period of active duty; and]

(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and

* * * * *

(d)(1) For purposes of this chapter, any period of service described in paragraphs (2) and (3) of this subsection shall not be considered a part of an [individual's initial obligated period of active duty] *obligated period of active duty on which an individual's entitlement to assistance under this section is based.*

* * * * *

[(e) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before October 28, 1994, shall be considered to have completed such requirements within the individual's initial obligated period of active duty.]

[(f) (e)(1) * * *

* * * * *

[(g) (f) * * *

[(h) (g)(1) * * *

(2) This subsection applies to a member who—

(A) [during an initial period of active duty,] *during the obligated period of active duty on which entitlement to assistance under this section is based,* commences pursuit of a course of education—

(i) * * *

* * * * *

[(i)] (h) The Secretary concerned shall inform any member of the Armed Forces who has not completed that member's [initial] obligated period of active duty (as described in subsection (a)(1)(A)) and who indicates the intent to be discharged or released from such duty for the convenience of the Government of the minimum active duty requirements for entitlement to educational assistance benefits under this chapter. Such information shall be provided to the member in a timely manner.

§ 3012. Basic educational assistance entitlement for service in the Selected Reserve

(a) Except as provided in subsection (d) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

(i) serves[, as the individual's initial obligated period of active duty, at least two years of continuous active duty in the Armed Forces] *an obligated period of active duty of at least two years of continuous active duty in the Armed Forces*, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

(ii) * * *

* * * * *

[(2) who, except as provided in subsection (f) of this section, before completion of the service described in clause (1) of this subsection, has completed the requirements of a secondary school diploma (or an equivalency certificate), except that (i) an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed (or otherwise received academic credit for) the equivalent of such 12 semester hours before the end of the individual's initial obligated period of active duty; and]

(2) *who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and*

(3) * * *

* * * * *

(e)(1) An individual described in subclause (I) or (III) of subsection (b)(1)(B)(ii) of this section may elect entitlement to basic educational assistance under section 3011 of this title, based on an

【initial】 obligated period of active duty of two years, in lieu of entitlement to assistance under this section.

(2) * * *

* * * * *

【(f) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before October 28, 1994, shall be considered to have completed such requirements within the individual's initial obligated period of active duty.】

【(g) (f)(1) * * *

* * * * *

§ 3013. Duration of basic educational assistance

(a)(1) * * *

(2) Subject to section 3695 of this title and subsection (d) of this section, in the case of an individual described in section 3011(a)(1)(A)(ii)(I) or (III) of this title who is not also described in section 3011(a)(1)(A)(i) of this title or an individual described in section 3011(a)(1)(B)(ii)(I) or (III) of this title who is not also described in section 3011(a)(1)(B)(i) of this title, the individual is entitled to one month of educational assistance benefits under this chapter for each month of continuous active duty served by such individual after June 30, 1985, as part of the 【individual's initial obligated period of active duty】 *obligated period of active duty on which such entitlement is based* in the case of an individual described in section 3011(a)(1)(A)(ii)(I) or (III) of this title, or in the case of an individual described in section 3011(a)(1)(B)(ii)(I) or (III) of this title, after June 30, 1985.

(b) Subject to section 3695 of this title and subsection (d) of this section, each individual entitled to basic educational assistance under section 3012 of this title is entitled to (1) one month of educational assistance benefits under this chapter for each month of continuous active duty served by such individual after June 30, 1985, as part of the 【individual's initial obligated period of active duty】 *obligated period of active duty on which such entitlement is based*, or in the case of an individual described in section 3012(a)(1)(B) of this title, after June 30, 1985, and (2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve after the applicable date specified in clause (1) of this subsection (other than any month in which the individual served on active duty).

* * * * *

§ 3015. Amount of basic educational assistance

(a) The amount of payment of educational assistance under this chapter is subject to section 3032 of this title. Except as otherwise provided in this section, *in the case of an individual entitled to an educational assistance allowance under this chapter whose obligated period of active duty on which such entitlement is based is three years*, a basic educational assistance allowance under this subchapter shall be paid—

(1) * * *

* * * * *

(b) In the case of an individual entitled to an educational assistance allowance under section 3011 or 3018 of this title [and whose initial obligated period of active duty is two years,] *whose obligated period of active duty on which such entitlement is based is two years*, a basic educational assistance allowance under this chapter shall (except as provided in the succeeding subsections of this section) be paid—

(1) * * *

* * * * *

(c)(1) * * *

(2) Paragraph (1) of this subsection applies to an individual entitled to an educational assistance allowance under section 3011 of this title—

[(A) whose initial obligated period of active duty is less than three years;

[(B) who, beginning on the date of the commencement of the person's initial obligated period of such duty, serves a continuous period of active duty of not less than three years; and]

(A) *whose obligated period of active duty on which such entitlement is based is less than three years;*

(B) *who, beginning on the date of the commencement of such obligated period of active duty, serves a continuous period of active duty of not less than three years; and*

(C) * * *

* * * * *

§ 3017. Death benefit

(a)(1) In the event of the service-connected death of any individual—

(A) who—

(i) * * *

(ii) is on active duty in the Armed Forces and but for clause (1)(A)(i) or [clause (2)(A)] *clause (2)* of section 3011(a) or clause (1)(A)(i) or (ii) or clause (2) of section 3012(a) of this title would be eligible for such basic educational assistance; and

(B) * * *

* * * * *

§ 3018. Opportunity for certain active-duty personnel to withdraw election not to enroll

(a) * * *

(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 3011(c)(1) or 3012(d)(1) of this title and who—

(1) * * *

* * * * *

[(4) before completing such obligated period of service (i) has completed the requirements of a secondary school diploma (or an equivalency certificate), or (ii) has successfully completed

(or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and] (4) before applying for benefits under this section—

(A) completes the requirements of a secondary school diploma (or equivalency certificate); or

(B) successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and

(5) * * *

* * * * *

CHAPTER 35—SURVIVORS’ AND DEPENDENTS’ EDUCATIONAL ASSISTANCE

* * * * *

Subchapter I—Definitions

* * * * *

§ 3501. Definitions

(a) For the purposes of this chapter and chapter 36 of this title—

(1) * * *

* * * * *

(5) The term “program of education” means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. *The term also includes any preparatory course described in section 3002(3)(B) of this title.*

Subchapter II—Eligibility and Entitlement

* * * * *

§ 3512. Periods of eligibility

(a) The educational assistance to which an eligible person (within the meaning of section 3501(a)(1)(A) of this title) is entitled under section 3511 of this title or subchapter V of this chapter may be afforded the person during the period beginning on the person’s eighteenth birthday, or on the successful completion of the person’s secondary schooling, whichever first occurs, and ending on the person’s twenty-sixth birthday, except that—

(1) * * *

* * * * *

(3) if the Secretary first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or if the death of the parent from whom eligibility is derived occurs, after the eligible person’s eighteenth birthday but before the person’s twenty-sixth birthday, then (unless paragraph (4) applies) such period shall end **18** years after, whichever date last occurs: (A) the date on which the Secretary first finds that the parent from whom eligibility is

derived has a service-connected total disability permanent in nature, or (B) the date of death of the parent from whom eligibility is derived;] 8 years after the date elected by the person (if such election is approved as the beginning date of such period by the Secretary and made during the period between such birthdays) which beginning date—

(A) in the case of a person whose eligibility is based on a parent who has a service-connected total disability permanent in nature shall be between the dates described in subsection (d) of this section; and

(B) in the case of a person whose eligibility is based on the death of a parent shall be between—

(i) the date of the parent's death; and

(ii) the date of the Secretary's decision that the death was service-connected;

* * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

Subchapter I—General

* * * * *

§ 3703. Basic provisions relating to loan guaranty and insurance

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 3710 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

(i)(I) * * *

* * * * *

(IV) in the case of any loan of more than \$144,000 for a purpose specified in clause (1), (2), (3), (6), or (8) of section 3710(a) of this title, the lesser of [\$50,750] \$63,175 or 25 percent of the loan; or

(ii) * * *

(B) The maximum amount of guaranty entitlement available to a veteran for purposes specified in section 3710 of this title shall be \$36,000, or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, [\$50,750] \$63,175, reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 3702(b) of this title.

* * * * *

Subchapter III—Administrative Provisions

* * * * *

§ 3729. Loan fee

(a)(1) * * *

* * * * *

(c)(1) * * *

(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.

* * * * *

§ 3735. Housing assistance for homeless veterans

(a)(1) * * *

* * * * *

(4) The term of any lease under this subsection may not exceed **[three years]** 20 years.

* * * * *

CHAPTER 42—EMPLOYMENT AND TRAINING OF VETERANS

* * * * *

§ 4211. Definitions

As used in this chapter—

(1) * * *

* * * * *

(6) The term “recently separated veteran” means any veteran during the one-year period beginning on the date of such veteran’s discharge or release from active duty.

* * * * *

§ 4212. Veterans’ employment emphasis under Federal contracts

(a) Any contract in the amount of \$25,000 or more entered into by any department or agency for the procurement of personal property and non-personal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, *recently separated veterans*, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The provisions of this section shall apply to any subcontract entered into by a prime contractor in carrying out any contract for the procurement of personal property and non-personal services (including construction) for the United States. In addition to requiring affirmative action to employ such veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the President shall implement the provisions of this section by promulgating regulations which shall require that (1) each such contractor undertake in such contract to list immediately with the appropriate local employment service office all of its employment openings except that the contractor may exclude openings for executive and top management positions, posi-

tions which are to be filled from within the contractor's organization, and positions lasting three days or less, and (2) each such local office shall give such veterans priority in referral to such employment openings.

* * * * *

(d)(1) Each contractor to whom subsection (a) of this section applies shall, in accordance with regulations which the Secretary of Labor shall prescribe, report at least annually to the Secretary of Labor on—

(A) the number of employees in the work force of such contractor, by job category and hiring location, who are special disabled veterans, veterans of the Vietnam era, *recently separated veterans*, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized;

(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are special disabled veterans, veterans of the Vietnam era, *recently separated veterans*, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; and

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * *

CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

Subchapter I—Claims

Sec.

[5101. Claims and forms.]

5101. Definition of "claimant."

5101A. Claims and forms.

* * * * *

5103. * * *

5103A. Assistance to claimants.

* * * * *

§ 5101. Definition of "claimant"

For purposes of this chapter, the term "claimant" means any individual who submits a claim for benefits under the laws administered by the Secretary.

[§ 5101.] § 5101A. Claims and forms

(a) * * *

* * * * *

§ 5103. Incomplete applications

(a) If a claimant's application for benefits under the laws administered by the Secretary is incomplete, the Secretary shall notify

the claimant of the [evidence] *information* necessary to complete the application. If such [evidence] *information* is not received within one year from the date of such notification, no benefits may be paid or furnished by reason of such application.

(b) * * *

* * * * *

§ 5103A. Assistance to claimants

(a) *Except as provided in subsection (b), the Secretary shall make reasonable efforts to assist in the development of information and medical or lay evidence necessary to establish the eligibility of a claimant for benefits under the laws administered by the Secretary.*

(b) *The Secretary is not required to provide assistance to a claimant under subsection (a) if no reasonable possibility exists, as determined in accordance with regulations prescribed under subsection (f), that such assistance would aid in the establishment of the eligibility of the claimant for benefits under the laws administered by the Secretary.*

(c) *In any claim for benefits under the laws administered by the Secretary, the assistance provided by the Secretary under subsection (a) shall include the following:*

(1) *Informing the claimant and the claimant's representative, if any, of the information and medical or lay evidence needed in order to aid in the establishment of the eligibility of the claimant for benefits under the laws administered by the Secretary.*

(2) *Informing the claimant and the claimant's representative, if any, if the Secretary is unable to obtain any information or medical or lay evidence described in paragraph (1).*

(d)(1) *In any claim for disability compensation under chapter 11 of this title, the assistance provided by the Secretary under subsection (a) shall include, in addition to the assistance provided under subsection (c), the following:*

(A) *Obtaining the relevant service and medical records maintained by applicable governmental entities that pertain to the veteran for the period or periods of the veteran's service in the active military, naval, or air service.*

(B) *Obtaining existing records of relevant medical treatment or examination provided at Department health-care facilities or at the expense of the Department, but only if the claimant has furnished information sufficient to locate such records.*

(C) *Obtaining from governmental entities any other relevant records the claimant adequately identifies and authorizes the Secretary to obtain.*

(D) *Making reasonable efforts to obtain from private persons and entities any other relevant records the claimant adequately identifies and authorizes the Secretary to obtain.*

(E) *Providing a medical examination needed for the purpose of determining the existence of a current disability if the claimant submits verifiable evidence, as determined in accordance with the regulations prescribed under subsection (f), establishing that the claimant is unable to afford medical treatment.*

(F) *Providing such other assistance as the Secretary considers appropriate.*

(2) *The efforts made to obtain records under subparagraphs (A), (B), and (C) of paragraph (1) shall continue until it is reasonably certain, as determined in accordance with the regulations prescribed under subsection (f), that such records do not exist.*

(e) *If while obtaining or after obtaining information or lay or medical evidence under subsection (d) the Secretary determines that a medical examination or a medical opinion is necessary to substantiate entitlement to a benefit, the Secretary shall provide such medical examination or obtain such medical opinion.*

(f) *The Secretary shall prescribe regulations for purposes of the administration of this section.*

* * * * *

§ 5106. Furnishing of information by other agencies

The head of any Federal department or agency shall provide such information to the Secretary as the Secretary may request for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto. *The cost of providing such information shall be borne by the department or agency providing such information.*

§ 5107. Burden of proof; benefit of the doubt

[(a) Except when otherwise provided by the Secretary in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Secretary shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Secretary shall assist such a claimant in developing the facts pertinent to the claim. Such assistance shall include requesting information as described in section 5106 of this title.

[(b) When, after consideration of all evidence and material of record in a case before the Department with respect to benefits under laws administered by the Secretary, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the matter, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Secretary the burden specified in subsection (a) of this section.]

§ 5107. Burden of proof; benefit of the doubt

(a) *Except when otherwise provided by this title or by the Secretary in accordance with the provisions of this title, a claimant shall have the burden of proof in establishing entitlement to benefits under the laws administered by the Secretary.*

(b) *The Secretary shall consider all information and lay and medical evidence of record in a case before the Department with respect to benefits under laws administered by the Secretary, and shall give the claimant the benefit of the doubt when there is an approximate balance of positive and negative evidence regarding an issue material to the determination of the matter.*

* * * * *

Subchapter II—Effective Dates

§ 5113. Effective dates of educational benefits

(a) Except as provided in [subsection (b) of this section,] subsections (b) and (c), effective dates relating to awards under chapters 30, 31, 32, 34, and 35 of this title or chapter 106 of title 10 shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

(b)(1) *In determining the effective date of an award of educational assistance under chapter 35 of this title for an individual described in paragraph (2) based on an original claim, the Secretary shall consider the individual's application under section 3513 of this title as having been filed on the effective date from which the Secretary, by rating decision, determines that the veteran from whom eligibility for such educational assistance is derived either died of a service-connected disability or established the existence of a total service-connected disability evaluated as permanent in nature if that effective date is more than one year before the date the rating decision is made.*

(2) *An individual referred to in paragraph (1) is a person eligible for educational assistance under chapter 35 of this title by reason of subparagraph (A)(i), (A)(ii), (B), or (D) of section 3501(a)(1) of this title who—*

(A) submits to the Secretary an original application under section 3513 of this title for educational assistance under that chapter within one year after the date that the Secretary issues the rating decision on which the individual's eligibility for such educational assistance is based;

(B) claims such educational assistance for pursuit of an approved program of education during a period or periods preceding the one-year period ending on the date on which the individual's application under that section is received by the Secretary; and

(C) would, without regard to this subsection, have been entitled to such educational assistance for pursuit of such approved program of education if the individual had submitted such application on the effective date from which the Secretary determined that the individual was eligible for such educational assistance.

[(b)] (c) The effective date of an adjustment of benefits under any chapter referred to in subsection (a) [of this section], if made on the basis of a certification made by the veteran or person and accepted by the Secretary under section 3680(g) of this title, shall be the date of the change.

* * * * *

PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

* * * * *

CHAPTER 73—VETERANS HEALTH ADMINISTRATION-ORGANIZATION AND FUNCTIONS

* * * * *

Subchapter I—Organization

* * * * *

§ 7306. Office of the Under Secretary for Health

(a) The Office of the Under Secretary for Health shall consist of the following:

(1) * * *

* * * * *

(9) The Advisor on Physician Assistants, who shall carry out the responsibilities set forth in subsection (f).

[(9)] (10) * * *

* * * * *

(e)(1) * * *

(f) The Advisor on Physician Assistants under subsection (a)(9) shall—

(1) advise the Under Secretary for Health on matters regarding the optimal utilization of physician assistants by the Veterans Health Administration;

(2) advise the Under Secretary for Health on the feasibility and desirability of establishing clinical privileges and practice areas for physician assistants in the Administration;

(3) develop initiatives to facilitate the utilization of the full range of clinical capabilities of the physician assistants employed by the Administration;

(4) provide advice on policies affecting the employment of physician assistants by the Administration, including policies on educational requirements, national certification, recruitment and retention, staff development, and the availability of educational assistance (including scholarship, tuition reimbursement, and loan repayment assistance); and

(5) carry out such other responsibilities as the Under Secretary for Health shall specify.

[(f)] (g) * * *

* * * * *

CHAPTER 74—VETERANS HEALTH ADMINISTRATION-PERSONNEL

* * * * *

Subchapter I—Appointments

* * * * *

§ 7405. Temporary full-time appointments, part-time appointments, and without-compensation appointments

(a) * * *

* * * * *

(c)(1) Temporary full-time appointments under this section of persons in positions listed in section 7401(1) of this title may be for a period in excess of 90 days only if the Under Secretary for Health finds that circumstances render it impracticable to obtain the necessary services through appointments under that section.

(2) Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of ~~【nursing,】~~ *nursing* approved by the Secretary, who have successfully completed a full course of training as a physician assistant in a recognized school approved by the Secretary, or who have successfully completed a full course of training for any category of personnel described in paragraph (3) of section 7401 of this title in a recognized education or training institution approved by the Secretary, and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years.

(3)(A) *Temporary full-time appointments of persons in positions referred to in subsection (a)(1)(D) shall not exceed three years.*

(B) *Temporary full-time appointments under this paragraph may be renewed for one or more additional periods not in excess of three years each.*

~~【(3)】~~ (4) * * *

* * * * *

VETERANS MILLENNIUM HEALTH CARE AND BENEFITS ACT

* * * * *

TITLE IV—CONSTRUCTION AND FACILITIES MATTERS

* * * * *

SEC. 401. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

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

(1) * * *

* * * * *

(7) *Renovation of psychiatric nursing units at the Department of Veterans Affairs Medical Center, Murfreesboro, Tennessee, in an amount not to exceed \$14,000,000.*

* * * * *

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2000 and for fiscal year 2001—

(1) for the Construction, Major Projects, account ~~【\$57,500,000 for the projects authorized in paragraphs (1) through (5)】~~ *\$71,500,000 for the projects authorized in paragraphs (1) through (5) and (7) of section 401; and*

(2) for the Medical Care account, \$2,178,500 for the leases authorized in section 402.

(b) **LIMITATION.**—The projects authorized in paragraphs (1) through (5) and (7) of section 401 may only be carried out using—

(1) * * *

* * * * *

○