AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

106TH CONGRESS
1st Session

SENATE

REPORT
106–86

LEGISLATIVE AND OVERSIGHT ACTIVITIES DURING THE 105TH CONGRESS BY THE SENATE COMMITTEE ON VETERANS' AFFAIRS

SPECIAL REPORT

OF THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
COMMITTEE ACTIVITIES

JUNE 24, 1999—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1999

[105TH CONGRESS]

COMMITTEE ON VETERANS' AFFAIRS

ARLEN SPECTER, Pennsylvania, *Chairman*

STROM THURMOND, South Carolina
FRANK H. MURKOWSKI, Alaska
JAMES M. JEFFORDS, Vermont
BEN NIGHTHORSE CAMPBELL, Colorado
LARRY E. CRAIG, Idaho
Y. TIM HUTCHINSON, Arkansas

JOHN D. ROCKEFELLER IV, West Virginia
BOB GRAHAM, Florida
DANIEL K. AKAKA, Hawaii
PAUL WELLSTONE, Minnesota
PATTY MURRAY, Washington

CHARLES BATTAGLIA, *Staff Director*
JIM GOTTLIEB, *Minority Chief Counsel/Staff Director*

[106TH CONGRESS]

COMMITTEE ON VETERANS' AFFAIRS

ARLEN SPECTER, Pennsylvania, *Chairman*

STROM THURMOND, South Carolina
FRANK H. MURKOWSKI, Alaska
JAMES M. JEFFORDS, Vermont
BEN NIGHTHORSE CAMPBELL, Colorado
LARRY E. CRAIG, Idaho
Y. TIM HUTCHINSON, Arkansas

JOHN D. ROCKEFELLER IV, West Virginia
BOB GRAHAM, Florida
DANIEL K. AKAKA, Hawaii
PAUL WELLSTONE, Minnesota
PATTY MURRAY, Washington

CHARLES BATTAGLIA, *Staff Director*
JIM GOTTLIEB, *Minority Chief Counsel/Staff Director*

CONTENTS

Page

I. Introduction
Hearings
A. First session 1
B. Second session 2
Legislation
A. First session 2
B. Second session 5
Special oversight activities 10
Nominations
A. First session 13
B. Second session 13
II. Budget on veterans programs
A. First session 13
B. Second session 18
III. Service-connected compensation and related programs
A. Overview 20
B. First session
1. Cost-of-living adjustment 21
2. Codification of previous cost-of-living adjustment 21
3. Persian Gulf War veterans 22
4. Other compensation issues 23
5. Technical and clarifying amendments 24
C. Second session
1. Cost-of-living adjustment 25
2. Persian Gulf War veterans 25
3. Compensation for tobacco-related disabilities 26
4. Other veterans' compensation issues 26
IV. VA Pension programs
A. Overview 28
B. First session 28
C. Second session 28
V. Health care
A. Overview 29
B. First session
1. Persian Gulf War veterans 31
2. Priority access to VA medical care 31
3. Medical personnel matters 31
4. Construction authorization and property management 33
5. Legislation to extend expiring legal authorities 34
6. Technical amendments and corrections 35
7. Other health care legislation 38
C. Second session
1. Persian Gulf War veterans 39
2. Construction authorization and property management 40
3. Other medical care and medical administration matters 41
VI. Readjustment, educational assistance, and vocational rehabilitation benefits
A. Overview 43
B. First session 44
C. Second session 45

VII. Employment
A. Overview 47
B. First session 47
C. Second session 48
VIII. Home loan guaranty program
A. Overview 49
B. First session 50
C. Second session 51
IX. Burial benefits and memorial affairs
A. Overview 52
B. First session
1. Eligibility for benefits 53
2. Cemetery administration 54
C. Second session
1. Eligibility for benefits 55
2. Cemetery administration 56
X. Insurance
A. Overview 57
B. First session 57
C. Second session 57
XI. Claims adjudication and judicial review
A. Overview 58
B. First session 58
C. Second session 59
XII. Miscellaneous
A. First session 60
B. Second session 60

106TH CONGRESS } SENATE { REPORT
1st Session } { 106–86

LEGISLATIVE AND OVERSIGHT ACTIVITIES DURING THE 105TH CONGRESS BY THE SENATE COMMITTEE ON VETERANS' AFFAIRS

JUNE 24, 1999.—and ordered to be printed

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

REPORT

Pursuant to paragraph 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs (Committee) submits its report on legislative and oversight activities during the 105th Congress.

I. INTRODUCTION

Hearings

A. FIRST SESSION

During the First Session of the 105th Congress, the Committee held, in the aggregate, 22 days of hearings on legislative and oversight matters, on nominations to serve in the Department of Veterans Affairs (VA), the Department of Labor (DOL), and the United States Court of Veterans Appeals, and on the legislative recommendations of veterans service organizations (VSOs). The Committee held 12 days of hearings on illnesses associated with service in the Persian Gulf War; one day of hearings on the Administration's proposed budget for veterans programs for fiscal year 1998 and options for implementing budget reconciliation instructions; one day of hearings on alleged sexual harassment at VA; one day of hearings on miscellaneous pending legislation relating to VA health care programs and VA compensation, pension, and vocational rehabilitation programs, and related matters; one day of hearings on services provided to veterans in Hawaii; one day of hearings on nominations; and five days of hearings on the legislative recommendations of the VSO's.

B. SECOND SESSION

During the Second Session of the 104th Congress, the Committee held, in the aggregate, 12 days of hearings on legislative and oversight matters, and on VSOs' legislative recommendations. The Committee held one day of hearings on illnesses associated with service in the Persian Gulf War; two days of hearings on compensation issues, one relating to compensation for veterans who had become dependent on tobacco during service and who later contracted smoking-related illnesses, and one relating to veterans who were exposed to radiation (including radiogenic medical therapies) during service; two days of hearings on health policy issues, one relating to quality of care issues and one relating to long-term care policies; one day of hearings on preferences afforded to veterans seeking Federal employment; one day of hearings on nominations; and five days of hearings on the legislative recommendations of the VSO's.

Legislation

A. FIRST SESSION

During the First Session of the 105th Congress, the Committee met in open session two times to consider legislation, and reported one joint resolution, a related concurrent resolution, and nine bills to the Senate.

The joint resolution, to confer status as an honorary veteran of the Armed Forces of the United States on Leslie Townes (Bob) Hope was approved by the House of Representatives on June 3, 1997, and by the Senate on September 9, 1997, and was signed by the President into law as Public Law 105–67 on October 30, 1997. A related measure, a concurrent resolution to authorize the use of the rotunda of the Capitol for a ceremony honoring Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States, was approved by the Senate on October 22, 1997, and by the House of Representatives on October 23, 1997.

From the nine bills reported during the First Session, provisions derived from six, with modifications, were enacted as three public laws. These public laws are itemized and summarized below:

1. The "Veterans' Compensation Rate Amendments of 1997" (Public Law 105–98), signed November 19, 1997, and derived from H.R. 2367, as amended and passed by the House on October 31, 1997. The "Veterans' Compensation Rate Amendments of 1997" authorized VA to make cost-of-living adjustments in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnification compensation (DIC) for survivors of such veterans, effective December 1, 1997.

2. An act to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error (Public Law 105–111), signed November 21, 1997, and derived from H.R. 1090 (passed by the House on April 16, 1997) and S. 464 (reported by the Committee on November 13, 1997).

3. The "Veterans' Benefits Act of 1997" (Public Law 105–114), signed November 21, 1997, and derived from S. 714, S. 801, S. 986, and

S. 999 (as ordered reported by the Committee on October 7, 1997), and from H.R. 1092 (passed by the House on April 16, 1997), H.R. 1703, H.R. 2206, and H.R. 2571 (passed by the House on October 6, 1997). The "Veterans' Benefits Act of 1997" specifies as follows:

Title I—Equal Employment Opportunity Process in the Department of Veterans Affairs

A. That VA will establish a new VA employment discrimination complaint resolution system;

B. That VA will establish a quasi-independent VA Office of Employment Discrimination Complaint Adjudication to make final agency decisions on substantive equal employment opportunity issues; and

C. That VA will contract with a private entity to assess VA's discrimination complaint resolution system.

Title II—Extension and Improvement of Authorities

A. That Persian Gulf veterans will be deemed eligible for VA health care by virtue of having a condition associated with service in the Persian Gulf;

B. That VA will establish a grant program under which up to ten VA facilities will establish demonstration projects to improve care to Persian Gulf War veterans with undiagnosed or difficult to diagnose conditions;

C. That VA's authority to provide direct loans to Native Americans to purchase, construct, renovate, or refinance homes on trust land will be extended through December 31, 2001;

D. That VA will establish outreach and reporting requirements in support of the Native American Veteran Housing Loan Program;

E. That authorities relating to the provision of services to homeless veterans will be codified into a single section of title 38;

F. That VA authority to sell, lease, or donate VA properties to nonprofit organizations or to any State or political subdivision of States to assist homeless veterans to acquire shelter will be extended through December 31, 1999;

G. That VA authority to provide grant support to public and private nonprofit entities to establish programs to assist homeless veterans will be extended through September 30, 1999;

H. That DOL authority to operate the Homeless Veterans Reintegration Project (HVRP), which provides grants to community-based organizations focusing on returning homeless veterans to the workforce, will be extended through December 31, 1999;

I. That appropriations of $10,000,000 per year to the HVRP will be authorized;

J. That the scope of required VA reporting on assistance to homeless veterans will be broadened;

K. That VA authority to enter into "enhanced use leases" will be extended through December 31, 2001;

L. That limitations on the number of "enhanced use leases" which VA may enter into will be stricken;

M. That VA authority to provide noninstitutional alternatives to nursing home care (such as hospital-based home care, adult day health care, and community residential care) will be made permanent;

N. That VA's authority to operate a Health Professional Scholarship Program will be extended through December 31, 1998;

O. That VA will report within six months on the effectiveness of its Health Professional Scholarship Program and on alternatives for recruiting and retaining health professionals;

P. That VA will develop a national policy on breast cancer screening; and

Q. That the President will report on preparations to respond to medical emergencies arising from the terrorist use of weapons of mass destruction.

Title III—Major Medical Facility Projects Construction Authorization

A. That VA will be authorized to proceed with a seismic correction construction project at the Department of Veterans Affairs medical center (VAMC) in Memphis, Tennessee;

B. That VA will be authorized to proceed with a seismic correction and clinical improvements construction project at the McClellan Hospital at Mather Field, Sacramento, California;

C. That VA will be authorized to proceed with an outpatient clinic improvement construction project at Mare Island, Vallejo, California, and Martinez, California;

D. That VA will be authorized to enter into major facility leases for information resources management field offices in Birmingham, Alabama and Salt Lake City, Utah;

E. That VA will be authorized to enter into major medical facility leases for satellite outpatient clinics in Jacksonville, Florida; Boston, Massachusetts; Canton, Ohio; Portland, Oregon, and Tulsa, Oklahoma;

F. That appropriations of $34.6 million for fiscal year 1998 for the Construction, Major Projects account will be authorized;

G. That appropriations of $15.703 million for fiscal year 1998 for the Medical Care account (for major medical leases) will be authorized; and

H. That VA may expend only previously appropriated funds for major construction projects in northern California.

Title IV—Technical and Clarifying Amendments

A. That clarifying and technical amendments will be made to statutes improving existing educational programs;

B. That a clerical correction will be made to chapter 23 of title 38, United States Code, concerning burial benefits;

C. That an amendment will be made to clarify that a veteran discharged or released from active service due to a disability may be furnished VA hospital care and medical services;

D. That an amendment be made to clarify that "category C" veterans under VA treatment will be eligible for a one-time $1,200 home improvement/structural alteration benefit;

E. That the restriction that limits eligibility for transfers to community nursing homes to VA inpatients will be stricken;

F. That the name of the "Wm. Jennings Bryan Dorn Veterans Hospital" will be changed to the "Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center"; and

G. That an amendment will be made to clarify certain definitions relating to benefits for Vietnam veterans' children with spina bifida.

In addition, provisions derived from three of the nine bills reported by the Committee during the First Session were enacted, with modifications, as part of one public law (Public Law 105– 368) enacted during the Second Session of the 105th Congress.

Finally, a bill within the Committee's jurisdiction was enacted during the First Session with Committee support but without formal Committee action. That public law is an act to amend title 38, United States Code, to prohibit interment or memorialization in certain cemeteries of persons committing Federal or State capital crimes (Public Law 105–116), signed November 21, 1997.

B. SECOND SESSION

During the Second Session of the 105th Congress, the Committee met in open session one time to consider legislation, and reported to the Senate six bills which incorporated provisions, as amended, of one bill which had been reported during the First Session; provisions derived from nine bills; and original provisions. These provisions, and provisions derived from two additional bills which had been reported during the First Session and nine bills which had been approved by the House of Representatives, were enacted into two public laws during the Second Session. These two public laws are itemized and summarized below:

1. The "Veterans Employment Opportunities Act of 1998" (Public Law 105–339), signed October 31, 1998, and derived from H.R. 240 (passed by the House on April 9, 1997) and S. 1021 (passed by the Senate on October 5, 1998). The "Veterans Employment Opportunities Act of 1998" specifies:

A. That when Federal agencies seek employment candidates outside their own workforces, they will open employment opportunities to all "preference eligible" veterans;

B. That veterans' preference rights will be extended to non-policy positions in the Executive Office of the President, to certain positions in the legislative (including the General Accounting Office) and judicial branches, and to the Federal Aviation Administration;

C. That a single, uniform, redress mechanism will be established;

D. That violations of veterans' preferences laws will be deemed "prohibited personnel practices;" and

E. That veterans' employment provisions applicable to Federal contractors will be expanded.

2. The "Veterans Programs Enhancement Act of 1998" (Public Law 105–368), signed November 11, 1998, and derived from S. 309 (as ordered reported by the Committee on October 7, 1997); S. 730, S. 1822, S. 2273, S. 2358 (as ordered reported by the Committee on July 28, 1998); H.R. 1092 (as passed by the House on April 16, 1997); H.R. 3039 (as passed by the House on May 19, 1998); H.R. 3212; H.R. 3213 (as passed by the House on March 24, 1998); H.R. 3603 (as

passed by the House on May 19, 1998); H.R. 3980 (as passed by the House on August 3, 1998); and H.R. 4110 (as passed by the House on August 3, 1998). The "Veterans Programs Enhancement Act of 1998" specifies:

Title I—Provisions Relating to Veterans of Persian Gulf War and Future Conflicts

A. That the National Academy of Sciences (NAS) will evaluate available scientific evidence to determine whether there is an association between illnesses experienced by Persian Gulf War veterans and service in the Persian Gulf or exposure to one or more agents, hazards, medicines, or vaccines, during the Persian Gulf War;

B. That VA will provide priority health care services to treat illnesses that may be attributable to service in the Persian Gulf War or during any other period of hostilities;

C. That VA authority to provide care to Persian Gulf veterans will be extended through December 31, 2001;

D. That VA will enter into an agreement with NAS to develop a plan for a national center for the study of war-related illnesses and post-deployment health issues;

E. That VA will establish a public advisory committee to advise VA, the Department of Health and Human Services (HHS), and the Department of Defense (DOD) on proposed research relating to the health of Persian Gulf War veterans;

F. That VA, HHS, and DOD will report to Congress annually on the status of Persian Gulf War research activities;

G. That the findings of all Federal Persian Gulf War research will be made public;

H. That VA will enter into an agreement with NAS to determine the efficacy of treatments provided to Persian Gulf War veterans;

I. That VA and DOD will enter into an agreement with NAS to develop a curriculum for the continuing education of VA and DOD physicians on Persian Gulf War illness issues;

J. That VA authority to evaluate the health status of spouses and children of Persian Gulf War veterans will be extended through December 31, 1999; and

K. That examinations of spouses and children of Persian Gulf War veterans will be provided by VA, directly or on a fee-reimbursed basis.

Title II—Education and Employment

A. That VA's method for calculating certain fees paid to educational institutions that enroll veterans will be modified;

B. That advance payments of educational assistance benefits to students participating in work-study programs will be optional, not mandatory;

C. That servicemembers will be allowed to use college-granted credit for life experience in meeting eligibility requirements for educational assistance benefits;

D. That veteran-students in flight training will be allowed to continue to receive VA educational assistance even if they inadvertently fail to maintain certain flight certificates;

E. That wage increase and minimum salary requirements for on-the-job training programs provided by State and local governments will be waived;

F. That VA and military service branches will expand outreach activities;

G. That States, in their capacities as employers, will be subject to the Uniformed Services Employment and Reemployment Rights Act (USERRA);

H. That USERRA rights will be extended to veterans hired abroad by U.S. employers; and

I. That procedures for processing Federal employee complaints relating to USERRA will be modified.

Title III—Compensation, Pension, and Insurance

A. That the special pension provided to persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll will be increased from $400 to $600 per month;

B. That the payment of accelerated death benefits will be authorized to terminally ill persons under the Servicemembers' Group Life Insurance and Veterans' Group Life Insurance policies;

C. That VA will provide to Congress an assessment of the effectiveness and adequacy of insurance and benefits programs for the survivors of veterans with service-connected disabilities; and

D. That VA will issue dividends to the holders of World War II-era National Service Life Insurance series "H" policies.

Title IV—Memorial Affairs

A. That VA will be authorized to furnish memorial markers for certain members of the armed forces and spouses whose remains are unavailable for burial;

B. That eligibility for burial and funeral benefits will be extended to certain persons who served as merchant mariners between August 16, 1945, and December 31, 1946;

C. That the National Cemetery System will be redesignated the National Cemetery Administration, and that the Director of the National Cemetery System will be redesignated the Under Secretary for Memorial Affairs; and

D. That VA will be authorized to grant to the States up to 100 percent of costs to construct and equip new State cemeteries.

Title V—Court of Veterans Appeals

A. That renominated Court of Veterans Appeals (CVA) judges will be authorized to remain on the bench for up to one year while awaiting Senate confirmation;

B. That CVA's retirement fund will be exempted from sequestration orders;

C. That CVA survivors' annuity benefits will be subject to cost-of-living adjustments;

D. That CVA will submit a report on the feasibility of merging the retirement and survivor annuity plans with other Federal court retirement and survivor annuity programs; and

E. That CVA will be renamed the United States Court of Appeals for Veterans Claims.

Title VI—Housing

A. That VA will be authorized to guarantee loans to provide multifamily transitional housing for homeless veterans;

B. That the Direct Loan Revolving Fund, the Loan Guaranty Revolving Fund, and the Guaranty and Indemnity Fund will be consolidated into the Veterans Housing Benefit Program Fund;

C. That VA will provide in its annual budget submission a concise statement summarizing the financial activity of each of the housing programs operated under the Veterans Housing Benefit Program Fund;

D. That VA authority to guarantee home loans for members of the National Guard and Reserve components will be extended to September 30, 2003; and

E. That VA will comply with the Competition in Contracting Act and the Federal Acquisition Regulations when it contracts for property management services.

Title VII—Construction and Facilities Matters

A. That VA will be authorized to proceed with a major medical construction projects at Long Beach, California; San Juan, Puerto Rico; Washington, D.C.; Palo Alto, California; Cleveland (Wade Park), Ohio; Tucson, Arizona; Dallas, Texas; Auburn and Merced, California; Lebanon, Pennsylvania; Tampa, Florida;

B. That VA will be authorized to proceed with a major medical construction (parking garage) project at Denver, Colorado;

C. That VA will be authorized to enter into major leases for outpatient clinic facilities in Baton Rouge, Louisiana; Daytona Beach, Florida; and Oakland Park, Florida;

D. That appropriations of $241.1 million for fiscal years 1999 and 2000 for the Construction, Major Projects account will be authorized;

E. That appropriations of $8.5 million for fiscal years 1999 and 2000 for the Medical Care account (for major leases) will be authorized;

F. That the threshold for the definition of a "major medical facility lease" (giving rise to the requirement of a separate statutory authorization) will be increased from $300,000 to $600,000;

G. That the threshold for the definition of a "major parking facility project" (giving rise to the requirement of a separate statutory authorization) will be increased from $3 million to $4 million;

H. That VA will be prohibited from charging employee parking fees at the Spark M. Matsunaga VA Medical and Regional Office Center in Honolulu, Hawaii;

I. That VA will report to Congress on its use of authority to charge parking fees at VA medical facilities;

J. That VA will report to Congress on a master plan relating to Department lands at the West Los Angeles VAMC;

K. That the Aspinwall, Pennsylvania VAMC will be designated the "H. John Heinz III Department of Veterans Affairs Medical Center;"

L. That the Gainesville, Florida VAMC will be designated the "Malcom Randall Department of Veterans Affairs Medical Center;" and

M. That the Columbus, Ohio VA Outpatient Clinic will be designated the "Chalmers P. Wylie Veterans Outpatient Clinic."

Title VIII—Health Professionals Educational Assistance

A. That VA will establish an employee-incentive scholarship program to assist in the recruitment of health professionals;

B. That individuals eligible for the program will have been VA employees for at least two years and will have exceptional employment records;

C. That scholarships awarded under the program will cover tuition and other expenses of up to $10,000 per year for each full-time student participant;

D. That participants who do not complete the course of study will reimburse VA for assistance received;

E. That VA will establish an education debt reduction program to assist in the recruitment of health professionals;

F. That employees eligible to participate in the education debt reduction program will have been employed for fewer than six months; and

G. That assistance in the education debt reduction program will be limited to $6,000 in the first year of participation, $8,000 in the second year, and $10,000 in the third year.

Title IX—Miscellaneous Medical Care and Medical Administration Provisions

A. That VA will be authorized to provide priority health care services to treat certain diseases suffered by veterans who received nasopharyngeal radium irradiation treatment in service;

B. That VA authority to counsel and treat veterans for sexual trauma shall be extended through December 31, 2001;

C. That VA will develop and apply job-performance standards to Veterans Health Administration (VHA) network directors and other officials responsible for the allocation and management of resources;

D. That VA authority to retain forfeited pension funds for nursing home operating expenses will be extended;

E. That VA will report to Congress on the current system of locality-based pay for nurses;

F. That VA will report to Congress on its preparations for domestic medical response to attacks involving weapons of mass destruction; and

G. That an interim appointment of the Under Secretary for Health will be authorized through June 30, 1999.

Title X—Other Matters

A. That VA facilities will be named only for the geographic area where they are located except as specified by statute;

B. That reversion rights will be afforded to Board of Veterans' Appeals attorneys whose appointments as Board members are terminated;

C. That Board of Veterans' Appeals attorneys will be members in good standing of a bar of any State;

D. That the Board of Veterans' Appeals will be afforded flexibility in scheduling hearings and in considering and deciding appeals; and

E. That the formula used by the Department of Labor's Veterans' Employment and Training Service (VETS) to determine the number of VETS-funded Disabled Veterans Outreach Program Specialists will be modified to reflect the working-age veteran population in each State.

Title XI—Compensation Cost-of-Living Adjustment

That VA will be authorized to increase the rates of compensation and dependency and indemnity compensation to reflect an increase in the cost of living, effective December 1, 1998.

In addition, two public laws were enacted in the Second Session of the 105th Congress which contained provisions within the Committee's jurisdiction (a bar to compensation in cases where disability arises from tobacco use in service, and provisions enhancing certain education and readjustment benefits) on which no formal action was taken by the Committee. These two public laws are:

1. The "Transportation Equity Act for the 21st Century" (Public Law 105–178), signed June 9, 1998; and

2. The "Internal Revenue Service Restructuring and Reform Act of 1998" (Public Law 105–206), signed July 22, 1998.

Special Oversight Activities

The Committee conducted extensive oversight on Persian Gulf War issues during the 103rd and 104th Congresses. Nonetheless, the Committee determined that an additional, special oversight effort was necessary to review issues raised by veterans of that war. Thus, the Committee established a Special Investigation Unit on Gulf War Illnesses (SIU) to examine Federal policies and actions that have had an impact on the health of Persian Gulf War veterans.

During the First and Second Sessions, the SIU made numerous site visits to VA and DOD facilities. In addition, it reviewed voluminous materials and met with hundreds of Federal employees, VSO representatives, health professionals, scientists and researchers, and Gulf War veterans and their families. The SIU then issued a two-volume staff report, "Report of the Special Investigation Unit on Gulf War Illnesses," S. Prt. 105–39, which made the following key findings:

1. That while Persian Gulf War veterans share symptoms and illnesses, there does not appear to be any single "Gulf War syndrome";

2. That conclusions could not be drawn on the cause or causes of many symptoms and illnesses suffered by Gulf War veterans;

3. That there is insufficient evidence to prove that persons were exposed to chemical weapons or nerve agents in the Gulf;

4. That Persian Gulf War veterans who are ill must be monitored;

5. That DOD must improve its ability to forecast, identify, and respond to chemical, biological, and other toxic battlefield exposures; and

6. That VA must reduce delays in processing Persian Gulf War veterans' claims for compensation.

In addition, the SIU concluded:

1. That DOD was not sufficiently prepared during the Persian Gulf War to defend against chemical, biological, or other environmental hazards on the battlefield;

2. That DOD was still not sufficiently prepared, as of the date of the Report, to defend against chemical, biological or other environmental hazards on the battlefield;

3. That inadequate program monitoring hinders DOD and VA effectiveness in serving Gulf War veterans;

4. That DOD and VA failures to collect information, retain records, and generate valid data analysis impede efforts to respond to the needs of Gulf War veterans; and

5. That DOD and VA must make cooperation and coordination a top priority to ensure timely and effective service for Gulf War veterans.

Finally, the SIU recommended:

1. That DOD and the Central Intelligence Agency (CIA) create a single focal point for the gathering, analysis, and reporting of intelligence in support of military operations;

2. That CIA and DOD intelligence training ensure awareness of historical and collateral facts that may affect the interpretation and handling of intelligence data;

3. That DOD make chemical and biological warfare training a high priority;

4. That DOD establish troop training and safety programs to minimize possible health hazards from contact with depleted uranium (DU);

5. That DOD develop awareness and treatment doctrine to identify possible troop exposures to DU;

6. That DOD fund research into the health effects of DU exposure;

7. That DOD and VA utilize VA's DU Medical Follow-Up Program to provide timely medical evaluations to servicemembers and veterans exposed to DU;

8. That DOD, VA, and HHS implement policies that incorporate health lessons learned from the Gulf War;

9. That DOD establish a program to improve the capacity for rapid and early detection of exposures that may affect troop health during and after deployments;

10. That Congress direct that an independent scientific body evaluate a national center for the study of military health, with an emphasis on post-conflict health concerns and illnesses;

11. That VA contract with an independent scientific body to assess associations between illnesses and exposures to toxic agents and environmental or other wartime hazards;

12. That DOD and VA monitor treatments provided to Persian Gulf War veterans to determine whether those veterans are getting better or worse over time;

13. That DOD and VA remove barriers to timely and effective participation in health care programs;

14. That VA designate a new Assistant Secretary to oversee research, treatment, and compensation programs for veterans of battlefield deployments;

15. That VA training programs ensure a common awareness and understanding of programs and activities involving unexplained illnesses;

16. That VA conduct a quality assessment of Gulf War veterans' compensation claims;

17. That VA assess medical facilities' compliance with VA health care policies;

18. That DOD ensure compliance with policies pertaining to the retention of records, logs, and other documents related to wartime operations;

19. That DOD implement a system for tracking the locations of individual servicemembers during military operations;

20. That VA develop a consolidated medical examination protocol to determine Persian Gulf War veterans' eligibility for disability compensation and to provide data for VA's Persian Gulf War Registry program;

21. That VA utilize team and case management approaches so that VA claims processors and health care providers jointly participate in decisionmaking for benefits eligibility;

22. That VA require all VA medical facilities to provide information to Gulf War veterans on how they may apply for compensation benefits;

23. That VA require all VA benefits offices to provide information to Persian Gulf War veterans on how they may participate in the VA's Persian Gulf Registry examination program;

24. That VA expand the Persian Gulf Registry to comply with the requirements for a Gulf War veteran national database as mandated in the Veterans Health Care Act of 1992;

25. That DOD collect and maintain pre- and post-deployment medical information on all active duty and reserve personnel;

26. That DOD and VA establish a birth defects registry to gather statistics on possible reproductive health effects stemming from battlefield exposures;

27. That the joint DOD/CIA Khamisiyah plume modeling effort, and future similar efforts, be peer reviewed and made public;

28. That DOD and VA regularly exchange information on the health status of, and effective treatments for, Persian Gulf War veterans;

29. That DOD, in consultation with the Environmental Protection Agency (EPA) and HHS, supply to military commanders intelligence about environmental hazards that might adversely affect troop health and thereby impede the achievement of military missions;

30. That VA direct that veterans be provided clear and candid information about environmental risks they may have experienced during deployments;

31. That DOD and VA contract with an independent scientific body to evaluate treatment protocols that have been useful for persons in the general population who suffer from illnesses similar to Persian Gulf War veterans' illnesses and to recommend funding of appropriate clinical programs and research; and

32. That DOD and VA independently report to Congress on implementation of recommendations identified in the SIU report.

Nominations

A. FIRST SESSION

During the First Session of the 105th Congress, the Committee met in open session one time to consider four nominations. It reported four nominations to the Senate with favorable recommendations. The tables on page 14 portray the Committee's and the Senate's actions regarding these nominations.

B. SECOND SESSION

During the Second Session of the 105th Congress, the Committee met in open session two times to consider four nominations. It reported four nominations to the Senate with favorable recommendations. The table on page 15 portrays the Committee's and the Senate's actions regarding these nominations.

II. BUDGET ON VETERANS PROGRAMS

A. FIRST SESSION

On February 26, 1997, the Committee held a hearing on the Administration's proposed budget for veterans' programs for fiscal year 1998. Testimony was received from the Secretary of Veterans Affairs and other VA officials and from various veterans service organizations. In addition, statements for the record were received from the Chief Judge, United States Court of Veterans Appeals, and the Assistant Secretary of Labor for Veterans' Employment and Training.

On April 24, 1997, pursuant to the requirements of section 301(d) of the Congressional Budget Act of 1974, and with the approval of 11 of the 12 members of the Committee, the Committee submitted a letter to the Budget Committee reflecting its views and estimates on the proposed fiscal year 1998 veterans' programs budget.

With respect to discretionary account spending, the Committee's report expressed reservations on the Administration's proposal that VA medical care appropriations be cut and that additional funding be provided solely through (1) VA retention of VA-recovered third-party reimbursement and copayment receipts, and (2) payments to VA from Medicare accounts not then authorized by law. With respect to mandatory account spending, the Committee noted that it had previously approved a series of cost-saving provisions which had been incorporated into H.R. 2491, the "Balanced Budget Act of 1995," as vetoed by the President on December 6, 1995, and that it anticipated reconsideration of these provisions in the event that reconciliation instructions contained in the fiscal year 1998 budget resolution were to so dictate.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS NOMINATIONS

Name and Position	Date of Nomination	Date of Hearing	Date Reported	Date Confirmed
William P. Greene, Jr., Associate Judge	May 19, 1997	October 30, 1997	November 4, 1997	November 5, 1997

UNITED STATES DEPARTMENT OF VETERANS AFFAIRS NOMINATIONS

Name and Position	Date of Nomination	Date of Hearing	Date Reported	Date Confirmed
Richard J. Griffin, Inspector General	September 2, 1997	October 30, 1997	November 4, 1997	November 5, 1997
Joseph Thompson, Under Secretary for Benefits	October 3, 1997	October 30, 1997	November 4, 1997	November 5, 1997

UNITED STATES DEPARTMENT OF LABOR NOMINATIONS

Name and Position	Date of Nomination	Date of Hearing	Date Reported	Date Confirmed
Espiridion A. Borrego, Assistant Secretary for Veterans' Employment and Training	September 2, 1997	October 30, 1997	November 4, 1997	November 5, 1997

UNITED STATES DEPARTMENT OF VETERANS AFFAIRS NOMINATIONS

Name and Position	Date of Nomination	Date of Hearing	Date Reported	Date Confirmed
Togo D. West, Jr., Secretary of Veterans Affairs	January 27, 1998	February 24, 1998	April 22, 1998	April 28, 1998
Eligah Dane Clark, Chairman, Board of Veterans' Appeals	February 5, 1998		October 6, 1998	October 21, 1998
Edward A. Powell, Jr., Assistant Secretary for Management	February 26, 1998		October 6, 1998	October 21, 1998
Leigh A. Bradley, General Counsel	July 21, 1998		October 6, 1998	October 21, 1998

On June 4, 1997, the Senate and House Committees on the Budget issued a conference report (H. Rept. 105–116) approving a budget resolution (H. Con. Res. 84) which included targets for savings on veterans' programs. On June 5, 1997, the Senate adopted the concurrent resolution. Section 104 of the resolution directed the Committee to report changes in laws within the Committee's jurisdiction sufficient to reduce outlays for veterans' programs by $681 million in fiscal year 2002, and $2.733 billion in fiscals years 1998 through 2002.

On June 12, 1997, the Committee met in open session to consider, among other things, measures for complying with the outlay-reduction targets specified in the concurrent resolution. By unanimous vote, the Committee approved measures that would:

1. Extend through fiscal year 2002 VA authority to guarantee the timely payment of principal and interest to purchasers of real estate mortgage investment conduits through which VA loans to purchasers of defaulted property are bundled and resold in the securities markets (yielding, according to the Congressional Budget Office (CBO), Federal deficit reductions of $5 million in fiscal year 2002 and $25 million in fiscal years 1998 through 2002);

2. Extend through fiscal year 2002 certain fees charged to borrowers who obtain home purchase loans guaranteed, insured, or made by VA (yielding, according to CBO, Federal deficit reductions of $199 million in fiscal year 2002 and $822 million in fiscal years 1998 through 2002);

3. Extend through fiscal year 2002 VA authority to purchase and resell properties financed with defaulted VA-guaranteed loans when it is to the Government's advantage to do so (yielding, according to CBO, Federal deficit reductions of $5 million in fiscal year 2002 and $20 million in fiscal years 1998 through 2002);

4. Extend through fiscal year 2002 VA authority to verify income information provided by VA claimants for "means-tested" benefits by gaining access to certain records of the Social Security Administration and the Internal Revenue Service (yielding, according to CBO, Federal deficit reductions of $16 million with respect to benefits programs and $19 million with respect to medical service programs in fiscal year 2002, and $40 million with respect to benefits programs and $71 million with respect to medical service programs in fiscal years 1998 through 2002);

5. Extend through fiscal year 2002 limitations on pension benefits to be provided to certain pension-eligible veterans receiving Medicaid-financed nursing home care (yielding, according to CBO, Federal deficit reductions of $174 million in fiscal year 2002 and $637 million in fiscal years 1998 through 2002);

6. Extend through fiscal year 2002 VA authority to require that certain veterans make copayments in exchange for receiving hospital and medical care services (yielding, according to CBO, revenues of $11 million in fiscal years 1999 through 2002);

7. Extend through fiscal year 2002 VA authority to require that certain veterans make copayments in exchange for receiving outpatient medications (yielding, according to CBO, revenues of $152 million in fiscal years 1999 through 2002);

8. Extend through fiscal year 2002 VA authority to collect from third-party payers (e.g., insurance carriers or health care plans) the reasonable cost of providing certain medical treatments to certain veterans (generally, treatments for non-service-connected disabilities and medical conditions) (yielding, according to CBO, revenues of $829 million in fiscal years 1999 through 2002);

9. Authorize VA to retain funds collected through veterans' copayments and third-party payer reimbursements (rather than remitting such funds to the United States Treasury) and specifying that such funds would be retained by the collecting VA service network (yielding, according to CBO, Federal deficit reductions of $139 million in fiscal year 2002 and $641 million in fiscal years 1998 through 2002);

10. Require that VA, when it calculates annual cost-of-living adjustments in disability compensation and dependency and indemnity compensation benefits for fiscal years 1998 through 2002, round monthly benefits down to the next lower dollar amount (yielding, according to CBO, Federal deficit reductions of $128 million in fiscal year 2002 and $391 million in fiscal years 1998 through 2002);

11. Increase fees (from 1.0 percent to 2.25 percent of the total loan amount) charged by VA for VA financing to purchasers of properties acquired by VA due to default (yielding, according to CBO, Federal deficit reductions of $15 million in fiscal year 2002 and $67 million in fiscal years 1998 through 2002); and

12. Authorize VA to refer certain loan guaranty debts to the Internal Revenue Service for offset against tax refunds and, in cases where the debtor is a Federal employee, to the debtor's employing agency for offset against salary or wages (yielding, according to CBO, Federal deficit reductions of $90 million in fiscal years 1998 through 2002).

On June 12, 1997, measures approved by the Committee on that date were submitted to the Committee on the Budget. That filing included proposed legislative language reflecting the Committee's reconciliation recommendations; proposed report language outlining the Committee's recommendations; and a cost estimate prepared by CBO indicating that the Committee's recommendations, if enacted, would result in reductions in direct spending outlays of $681 million in fiscal year 2002, and $2.733 billion in fiscal years 1998 through 2002.

On June 12, 1997, the House Committee on Veterans' Affairs approved a series of budget reconciliation measures which differed from those approved by the Committee. The Senate appointed conferees on June 27, 1997, and the House appointed conferees on July 10, 1997. The conferees reconciled the differences as follows: they agreed to the Committee-approved provisions summarized above and, further, agreed to a House Committee-approved provision, as modified, specifying that, for fiscal year 1998, in the event that CBO-projected receipts by VA from veterans' copayments and third-party payer reimbursements fell short of projections by $25 million or more, such shortfalls would be reimbursed by the United States Treasury.

These provisions were reported to the Senate and House Committees on the Budget and were included as Title VIII, "Veterans and Related Provisions," of the conference report on H.R. 2015 (H. Rept. 105-217), the "Balanced Budget Act of 1997." The House

agreed to the conference report on July 30, 1997, and on July 31, 1997, the Senate agreed to the conference report, clearing the measure for the President. On August 1, 1997, H.R. 2015 was presented to the President. On August 5, 1997, the President signed H.R. 2015 into law as Public Law 105–33, the "Balanced Budget Act of 1997."

B. SECOND SESSION

On March 18, 1998, the Committee on the Budget ordered reported an original measure setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998. On March 20, 1998, that measure, S. Con. Res. 86, was reported (S. Rept. 105–170) by the Committee on the Budget containing provisions which, with respect to spending on veterans benefits and services (budget function 700), would have:

1. Modified the levels of new budget authority and outlays previously declared appropriate for fiscal years 1998 through 2002 by the budget resolution, H. Con. Res. 84, adopted by the Senate on June 5, 1997, and upon which the provisions of the "Balanced Budget Act of 1997" (Public Law 105–33) were based;
2. Specified, in addition, new budget authority and outlay levels appropriate for fiscal year 2003;
3. Increased such new budget authority and outlays levels for transportation programs (budget function 400) discretionary spending;
4. Decreased such new budget authority and outlays levels for veterans benefits and services (budget function 700) mandatory spending; and
5. Reserved the totality of savings in fiscal years 1999 through 2003 associated with such reductions in function 700 mandatory spending—$10.5 billion—for the purpose of offsetting additional outlays for discretionary highway and transit spending, as specified in the "Transportation Equity Act for the 21st Century" (Public Law 105–178), and as might be specified in future Department of Transportation and Related Agencies Appropriations Acts.

The Congressional Budget Office had previously estimated that savings of $10.5 billion over fiscal years 1999 through 2003 would result from the enactment of legislation barring the payment of veterans' compensation or survivors' benefits (dependency and indemnity compensation) in cases where the illness giving rise to the service-connected disability on which such benefits were premised stemmed from tobacco use while in service in the Armed Forces.

On March 31, 1998, the Committee held a hearing on tobacco-related illnesses suffered by veterans, and on VA policies for providing compensation and other benefits to veterans who are disabled by such illnesses and to their survivors. Among the topics on the agenda were VA policies for granting compensation and other benefits on the basis of tobacco-related disabilities, the costs of such benefits, and the mandatory spending savings that might be anticipated in the event that eligibility for such benefits might be barred as a matter of law.

S. Con. Res. 86 was considered by the Senate on March 30, 1998, through April 2, 1998, and was agreed to by the Senate on that date,

as amended. Among the amendments adopted by the Senate on April 2, 1998, was an amendment offered by the Committee's Chairman, Senator Arlen Specter, and its Ranking Minority Member, Senator John D. Rockefeller IV. In the form offered, the amendment would have stricken provisions in S. Con. Res. 86 increasing transportation programs and decreasing veterans programs spending allowances. The amendment, however, was modified by a second degree amendment which struck these provisions and substituted in their place a provision mandating a further analysis by the Office of Management and Budget and the Congressional Budget Office of smoking-related costs borne by VA. Thus, the provisions of S. Con. Res. 86 specifying that veterans programs mandatory spending be reduced by $10.5 billion during fiscal years 1999 through 2003 were approved by the Senate on April 2, 1998.

Provisions similar to those in S. Con. Res. 86, as reported, relating to transportation and veterans benefits were contained in a companion measure, H. Con. Res. 284, reported by the House Committee on the Budget on May 27, 1998, and approved by the House of Representatives and referred to the Senate on June 5, 1998. Conferees were appointed by the Senate on June 15, 1998. However, no conference agreement was ever reached and, thus, no budget resolution was approved during the Second Session of the 105th Congress. Consequently, the Committee was never directed by resolution to report changes in laws within the Committee's jurisdiction sufficient to reduce outlays by $10.5 billion, or any other amount, over fiscal years 1999 through 2003 for veterans programs. As a consequence, the Committee took no such action.

Notwithstanding the foregoing, legislation was enacted, without Committee action, during the Second Session of the 105th Congress which had the effect of barring the payment of disability compensation in cases where disability is attributable to the use of tobacco products in service. Specifically, subtitle B of Title VIII of the "Transportation Equity Act for the 21st Century" (Public Law 105–178), signed into law by the President on June 9, 1998, contained provisions which:

1. Prohibited the payment of wartime disability compensation under section 1110 of title 38, United States Code, and peacetime disability compensation under section 1131 of title 38, United States Code, in cases where disability is the result of the use of tobacco products except in cases where eligibility for compensation had been determined prior to the date of enactment;

2. Increased by 20 percent educational assistance benefits provided to veterans under section 3015 of title 38, United States Code, and to the Selected Reserve under section 16131 of title 10, United States Code;

3. Increased from $38,000 to $43,000 the maximum grant that may be provided to eligible veterans for adapted housing assistance under section 2101 of title 38, United States Code;

4. Increased from $5,500 to $8,000 the maximum grant that may be provided to eligible veterans for automobiles and adaptive automobile equipment under section 3902 of title 38, United States Code;

5. Increased by $600 the annual allowance provided under section 1521 of title 38, United States Code, to pension-eligible veterans in need of regular aid and attendance;

6. Restored previously repealed eligibility for dependency and indemnity compensation in cases involving eligible spouses who had remarried and whose remarriages had later been dissolved by death or divorce; and

7. Limited to 75 percent the offset of special separation benefits that could be recouped from veterans disability compensation benefits.

Subsequently, Congress enacted, without Committee action, and the President signed into law on July 22, 1998, the "Internal Revenue Service Restructuring and Reform Act of 1998" (Public Law 105–206). That statute contained "corrections" to the above-summarized provisions of the "Transportation Equity Act for the 21st Century" which:

1. Clarified the terms of the statutory ban on compensation for disabilities related to tobacco use by enacting special provisions relating to such claims so that (a) compensation would not be barred to persons who suffered tobacco-related disabilities while in service and (b) compensation would not be barred to persons who had filed claims for compensation before the date of enactment;

2. Increased by 20 percent benefits paid under sections 3532, 3534, and 3542 of title 38, United States Code, to veterans' survivors and dependents who are eligible for educational assistance; and

3. Increased by 20 percent benefits paid under section 3687 of title 38, United States Code, to veterans and survivors and dependents who are eligible for assistance while pursuing apprenticeship and on-the-job training programs.

III. SERVICE-CONNECTED COMPENSATION AND RELATED PROGRAMS

A. OVERVIEW

VA's disability compensation program provides monthly payments to veterans who have impairments to earning capacity because of service-connected disabilities. The amount paid varies in accordance with the nature of the veteran's disability or combination of disabilities and, thus, the extent to which earning capacity is deemed to have been impaired. Monthly benefits so paid are specified in a schedule established and codified in statute. As of the end of calendar year 1998, an estimated 2.281 million veterans were receiving compensation benefits.

VA pays dependency and indemnity compensation (DIC) benefits to surviving spouses, children, and dependent parents of veterans who die during active duty or as a result of a service-connected condition. This benefit is intended to compensate for the loss of family income. In cases where a surviving spouse remarries, he or she loses eligibility for DIC until such time that the remarriage is terminated by death or divorce, in which case the surviving spouse would then be eligible to reapply for DIC. At the end of calendar year 1998, an estimated 327,928 survivors were receiving benefits under the DIC program.

Congress also has established programs to meet certain specific needs of service-connected veterans, including grants for specially adapted housing; grants for automobiles and adaptive automotive equipment; clothing allowances for service-connected veterans who use

prosthetic or orthopedic appliances which wear or tear clothing, or who use medications which damage outer garments; and additional compensation allowances for certain service-connected veterans who have dependents.

B. FIRST SESSION

1. Cost-of-Living Adjustment

On July 7, 1997, Chairman Specter introduced S. 987 at the request of the Administration. That bill would have authorized VA to make cost-of-living adjustments, by administrative action, in the rates of disability compensation for veterans with service-connected disabilities and the rates of DIC for survivors of such veterans, and to revise and improve certain veterans compensation, pension, and memorial affairs programs. Prior to the introduction of the bill, the Committee, on February 26, 1997, held a hearing on VA's proposed budget for fiscal year 1998. During that hearing, the Committee considered projected cost-of-living adjustments to compensation and DIC for 1998, and received testimony from VA and various veterans service organizations. In addition, on July 25, 1997, the Committee heid a hearing on S. 987 and other pending legislation. At that hearing, the Committee received further testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 987, as amended. As amended, the bill contained only those provisions of S. 987 which would authorize a cost-of-living adjustment in the rates of disability compensation and DIC. On that date, the Committee voted to report S. 987, as amended, favorably to the Senate, and on October 29, 1997, the bill was reported (S. Rept. 105–120).

On October 31, 1997, the House passed a measure, H.R. 2367, which contained a cost-of-living adjustment provision which was substantially identical to that in S. 987, as amended, and referred that bill to the Senate. On November 5, 1997, the Senate took up H.R. 2367 and unanimously passed H.R. 2367 without amendment. On November 7, 1997, H.R. 2367 was presented to the President. On November 19, 1997, the President signed H.R. 2367 into law as Public Law 105–98, the "Veterans' Compensation Rate Amendments of 1997."

2. Codification of Previous Cost-of-Living Adjustment

On July 7, 1997, Chairman Specter introduced S. 986 at the request of the Administration. That bill would have made certain improvements in the housing loan programs for veterans and eligible persons, and for other purposes. On July 25, 1997, the Committee held a hearing on S. 986 and other pending legislation. At that hearing, the Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 986, as amended. As amended, the bill contained provisions which would have codified cost-of-living adjustments in disability compensation, DIC, additional compensation for service-connected veterans who have dependents, and the clothing

allowance, previously made by VA through administrative action as authorized by the "Veterans' Compensation Cost-of-Living Adjustment Act of 1996" (Public Law 104–263). On that date, the Committee voted to report S. 986 favorably to the Senate, and on November 10, 1997, the bill was reported (S. Rept. 105–153).

As noted above, on October 31, 1997, the House passed H.R. 2367. When that bill was brought to the House Floor on October 31, 1997, an amendment was approved which added a provision codifying the administrative cost-of-living adjustments made by VA pursuant to the "Veterans' Compensation Cost-of-Living Adjustment Act of 1996" (Public Law 104–263). The House then passed H.R. 2367, as so amended. On November 5, 1997, the Senate took up H.R. 2367 and unanimously passed H.R. 2367 without amendment. On November 7, 1997, H.R. 2367 was presented to the President. On November 19, 1997, the President signed H.R. 2367 into law as Public Law 105–98, the "Veterans' Compensation Rate Amendments of 1997."

3. Persian Gulf War Veterans

On January 28, 1997, Senator Paul Wellstone introduced S. 211, to extend the period of time within which manifestations of chronic disabilities due to undiagnosed symptoms must appear in Persian Gulf War veterans in order for those disabilities to be compensable by VA.

Prior to the introduction of S. 211, on January 9, 1997, the Committee held the first of 12 hearings during the First Session on issues pertaining to Persian Gulf War veterans. At that hearing, the Committee received testimony from representatives of the VA, the CIA, and the Presidential Advisory Committee on Persian Gulf War Veterans' Illnesses (PAC). On January 29, 1997, the Committee held a hearing and received testimony from representatives of the DOD. On April 17, 1997, the Committee held a hearing and received testimony from General Colin L. Powell, U.S. Army (retired), Former Chairman, Joint Chiefs of Staff. On June 25, 1997, the Committee held a hearing and received testimony from representatives of the General Accounting Office. Finally, on the dates and at the sites indicated as follows, the Committee also held a series of field hearings relating to Persian Gulf War veterans: January 27, 1997, Pittsburgh, Pennsylvania; February 3, 1997, Philadelphia, Pennsylvania; February 7, 1997, Wormleysburg, Pennsylvania; April 2, 1997, Huntington, West Virginia; April 3, 1997, Wheeling, West Virginia; August 5, 1997, Kent, Washington; August 5, 1997, Spokane, Washington; and November 20, 1997, Pittsburgh, Pennsylvania.

No action was taken on S. 211 during the First Session.

On October 24, 1997, Ranking Minority Member Rockefeller introduced S. 1320, the proposed "Persian Gulf War Veterans Act of 1997." S. 1320, as introduced, would have:

1. Codified VA authority to designate, based on sound medical and scientific evidence, diagnosed and undiagnosed illnesses presumed to be associated with Persian Gulf War service for purposes of compensation;

2. Compelled VA to enter into an agreement with NAS to (a) identify environmental and other agents to which Persian Gulf War veterans were exposed; (b) identify illnesses which Persian Gulf War

veterans suffer; (c) analyze associations, if any, between various environmental exposures in the Persian Gulf War theater and disease; and (d) analyze potential treatment models;

3. Compelled VA to monitor the health status of Persian Gulf War veterans; and

4. Required the establishment of certain research and outreach programs to assist veterans of the Persian Gulf War.

No action was taken on S. 1320 during the First Session.

4. Other Compensation Issues

On April 22, 1997, Senator Daniel K. Inouye introduced S. 623, the proposed "Filipino Veterans Equity Act of 1997." That bill would have modified provisions of law which specify that World War II service in the forces of the Commonwealth of the Philippines and in the Philippine Scouts shall not be deemed to have been active military, naval, or air service except for purposes of eligibility for compensation and DIC, in which case such persons shall be eligible for such benefits at one-half the rate of benefits provided to veterans. The bill would have deemed persons who served during World War II in the forces of the Commonwealth of the Philippines and in the Philippine Scouts as having served in the active military, naval, or air service and thereby deemed them to be veterans eligible for all VA-administered benefits on the same basis as any other veteran.

On July 25, 1997, the Committee held a hearing on S. 623 and other pending legislation. At that hearing, the Committee received testimony from Senator Inouye, from United States Representatives Bob Filner and Benjamin A. Gilman, and from representatives of the VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 623, as amended. As amended, the bill would have authorized the payment of burial and funeral allowance benefits to former members of the Commonwealth Army of the Philippines who, at death, were naturalized citizens of the United States and resident in the United States. On that date, the Committee voted to report S. 623 favorably to the Senate. No further action was taken on S. 623 during the 105th Congress.

As noted above, on July 7, 1997, Chairman Specter introduced S. 987 at the request of the Administration. That bill contained, among other provisions, one which would have banned VA compensation in cases where disability is attributable to the use of tobacco products in service. No action was taken on this provision in S. 987 during the First Session.

On October 1, 1997, Senator James M. Jeffords introduced S. 1247, a bill to limit the amount of recoupment from veterans disability compensation that is required in the case of a veteran who received special separation benefits (SSB) from the Department of Defense. The bill would have specified that only 75 per cent of special separation benefits—which would otherwise be fully offset—would be offset from subsequent disability compensation benefits (if any).

On November 4, 1997, Senator James M. Jeffords introduced S. 1359, a bill which was substantially identical to S. 1247.

No action was taken on S. 1247 or S. 1359 during the First Session.

On November 6, 1997, Senator Paul Wellstone introduced S. 1385, the proposed "Justice for Atomic Veterans Act of 1997." S. 1385 would have expanded the statutory listing of 15 diseases (leukemia, multiple myeloma, lymphomas (except Hodgkin's Lymphoma), cancers of the thyroid, breast, pharynx, esophagus, stomach, small intestine, pancreas, bile ducts, gall bladder, liver, salivary gland, and urinary tract) which are presumed to be service-connected for purposes of eligibility for VA compensation if contracted by veterans who were exposed to radiation in service. S. 1385 would have added to that listing the following additional diseases: cancers of the lung, bones, skin, colon, rectum, ovary, and brain and central nervous system; posterior subcapsular cataracts; non-malignant thyroid nodular disease; and parathyroid adenoma.

No action was taken on S. 1385 during the First Session.

5. Technical and Clarifying Amendments

During the 104th Congress, provisions which had originally been introduced by Senate Minority Leader Thomas A. Daschle as S. 2008, the proposed "Agent Orange Benefits Act of 1996," were enacted as section 421 of Public Law 104–204 (September 26, 1996), an "Act Making Appropriations for the Departments of Veterans Affairs, and Housing and Urban Development, and for Sundry Independent Agencies, Boards, Commissions, Corporations, and Offices for the Fiscal Year ending September 30, 1997." Those provisions provided the following benefits to Vietnam veterans' children who are born with spina bifida:

1. Payment of a monthly monetary allowance, varying by degree of disability suffered by the child;
2. Health care for any disability associated with the person's spina bifida; and
3. Vocational training, job placement and post-job-placement services.

On July 15, 1997, Chairman Specter introduced S. 1018 at the request of the Administration. That bill would have made technical and clarifying amendments to provisions of law governing benefits for certain children of Vietnam veterans adopted in Public Law 104–204.

As noted above, the Committee met in open session, on October 7, 1997, to consider pending legislation. On that date, the Committee voted to report S. 714, a bill pertaining to subject matter not related to S. 1018. Subsequently, S. 714 was passed by the Senate on November 5, 1997, and referred to the House. On November 9, 1997, the House amended, and then passed, S. 714. Among the amendments added to S. 714 by the House (at section 404) were technical and clarifying amendments derived from S. 1018. On November 10, 1997, the Senate agreed to the House amendments to S. 714 (including section 404), clearing the measure for the President. On November 13, 1997, S. 714, the "Veterans' Benefits Act of 1997," was presented to the President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

C. SECOND SESSION

1. Cost-of-Living Adjustment

On July 8, 1998, Chairman Specter introduced S. 2273, the proposed "Veterans' Compensation Cost-of-Living Adjustment Act of 1998." S. 2273 would have authorized VA to make cost-of-living adjustments, by administrative action, to compensation and DIC rates, effective December 1, 1998.

On July 28, 1998, the Committee met in open session to consider, among other things, S. 2273, as amended, to correct a typographical error in the bill as introduced. On that date, the Committee voted to report S. 2273 favorably to the Senate. On September 21, 1998, the bill was reported (S. Rept. 105–34).

On August 3, 1998, the House passed a measure, H.R. 4110, which would have provided for a cost-of-living adjustment in VA compensation and DIC rates, and which, in addition, contained provisions relating to veterans' educational benefits, the Court of Veterans Appeals, and other matters. On September 30, 1998, the Senate took up H.R. 4110 and amended it to substitute the text of S. 2273, as reported. The Senate then passed H.R. 4110, by voice vote, as so amended.

On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110, and further amended the bill to add to it a number of measures, discussed in detail below, unrelated to making cost-of-living adjustments to compensation and DIC rates. On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

2. Persian Gulf War Veterans

On July 27, 1998, Ranking Member Rockefeller (for himself and for Chairman Specter and Senators Byrd, Daschle, Cleland, Conrad, Murray, Kerry, Dodd, Kohl, Mikulski, Hutchinson, Ford, Thurmond, Campbell, and JeffordS) introduced S. 2358, the proposed "Persian Gulf War Veterans Act of 1998," a bill which incorporated, and added to, provisions contained in S. 1320, introduced during the First Session. Like S. 1320, S. 2358 would have:

1. Codified VA authority to designate, based on sound medical and scientific evidence, diagnosed and undiagnosed illnesses presumed to be associated with Persian Gulf War service;

2. Compelled VA to enter into an agreement with NAS to (a) identify environmental and other agents to which Persian Gulf War veterans had been exposed; (b) identify illnesses which Persian Gulf War veterans suffer; (c) analyze associations, if any, between various environmental exposures and disease; and (d) analyze potential treatment models;

3. Compelled VA to monitor the health status of Persian Gulf War veterans; and

4. Required the establishment of research and outreach programs to assist veterans of the Persian Gulf War.

In addition, S. 2358 would have:

1. Extended VA authority to provide priority access for care for "undiagnosed illnesses" to December 31, 2001; and

2.Extended VA authority to conduct diagnostic testing and medical examinations of Persian Gulf veterans' spouses and children.

As noted above, the Committee met in open session on July 28, 1998, to consider pending legislation. Among the bills considered was S. 2358. On that date, the Committee voted to report S. 2358 favorably to the Senate, and on October 2, 1998, the bill was reported (S. Rept. 105–362). On October 8, 1998, the Senate took up S. 2358, as amended to incorporate technical amendments and an amendment to the bill's title, and unanimously passed S. 2358, as amended, and sent the bill to the House. On October 10, 1998, the House then incorporated certain provisions of S. 2358 into H.R. 4110 when it amended and passed H.R. 4110 (as amended and passed by the Senate on September 30, 1998) as the "Veterans Programs Enhancement Act of 1998." That bill was signed by the President on November 11, 1998 as Public Law 105–368.

Provisions similar to those contained in that statute were included as the "Persian Gulf War Veterans Act of 1998" in Title XVI of Division C of legislation that was to become Public Law 105–277, an "Act Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999." That legislation was approved by the Senate on October 21, 1998 (but before approval of the "Veterans Programs Enhancement Act of 1998" on the same date), and was presented to the President and signed into law on October 21, 1998, as Public Law 105–277.

3. Compensation for Tobacco-Related Disabilities

As noted above, subtitle B of Title VIII of the "Transportation Equity Act for the 21st Century" (Public Law 105–178), signed into law by the President on June 9, 1998, contains a ban on VA compensation for tobacco-related disabilities, and section 9014 of the "Internal Revenue Service Restructuring and Reform Act of 1998" (Public Law 105–206), signed into law by the President on July 22, 1998, clarified the terms of that statutory ban. In summary, such compensation will be barred with respect to claimants who had not filed claims for compensation prior to enactment of Public Law 105–178 (even if, for example, the veteran became dependent upon tobacco in service), but it will not be barred with respect to disabilities from tobacco-related illnesses contracted while in service.

4. Other Veterans' Compensation Issues

As noted above, Senator James M. Jeffords introduced both S. 1247 and S. 1359 during the First Session. Those bills would have specified that only 75 percent (not 100 percent, as otherwise provided by law) of special separation benefits would be offset from a veteran's subsequent disability compensation benefits (if any).

The Committee did not take any action on S. 1247 or S. 1359 during the Second Session. However, as detailed in section II.B., above, subtitle B of Title VIII of the "Transportation Equity Act for the 21st Century" (Public Law 105–178) contained a number of provisions within the Committee's jurisdiction. Among them was a provision (in section 8208) derived from S. 1247 and S. 1359 which limited to 75 percent the offset of special separation benefits that could be recouped from veterans' disability compensation benefits.

As noted above, Senator Paul Wellstone introduced S. 1385 during the First Session of the 105th Congress. As introduced, S. 1385 would have added 10 diseases (cancers of the lung, bones, skin, colon, rectum, ovary, brain and central nervous system; posterior subcapsular cataracts; non-malignant thyroid nodular disease; and parathyroid adenoma) to the listing of 15 diseases (itemized above) presumed to be service-connected for purposes of eligibility for VA compensation if contracted by veterans who were exposed to radiation in service. On July 28, 1998, the Committee met in open session to consider, among other things, S. 1385, as amended to incorporate a substitute. As amended, S. 1385 would have added the following three of ten diseases contained in S. 1385, as introduced, to the statutory listing of diseases presumed to be service-connected for purposes of eligibility for VA compensation if contracted by veterans who were exposed to radiation in service: cancers of the lung, ovary, and brain and central nervous system. The Committee voted to report S. 1385, as amended, favorably to the Senate on July 28, 1998, and on September 22, 1998, the bill was reported (S. Rept. 105–343). No further action was taken on S. 1385 during the 105th Congress.

As detailed above, H.R. 4110, as amended by the Senate on September 30, 1998, was further amended by the House on October 10, 1998. Among those amendments was a provision (at section 303) requiring VA to report to Congress on the adequacy of survivor benefits programs and insurance programs in meeting the needs of the survivors of deceased veterans who had had service-connected disabilities. On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

Finally, as discussed above, subtitle B of Title VIII of the "Transportation Equity Act for the 21st Century" (Public Law 105–178), contained provisions which barred VA compensation for tobacco-related disabilities. It also contained the following additional provisions relating to VA compensation: a provision at section 8204 specifying that the maximum amount that can be provided by VA as a grant for specially adapted housing be increased from $38,000 to $43,000; a provision at section 8206 specifying that the maximum amount that can be provided by VA as a grant for an automobile and adaptive automotive equipment be increased from $5,500 to $8,000; and a provision at section 8207 specifying that, in cases where a previously eligible surviving spouse has lost eligibility for DIC benefits due to remarriage, eligibility will be restored if the subsequent (and disqualifying) marriage is dissolved by death, divorce, or annulment.

IV. VA PENSION PROGRAMS

A. OVERVIEW

VA pension programs provide needs-based income security benefits to wartime veterans who are totally and permanently disabled due to non-service-connected causes or who have become unemployable, and to the needy surviving spouses and children of such veterans. As of the end of calendar year 1998, an estimated 387,256 veterans, 268,793 surviving spouses, and 30,555 surviving children were in receipt of VA pension.

Congress has also enacted a non-needs-based program for the payment of a special pension to persons listed on the "Army, Navy, Air Force, and Coast Guard Medal of Honor Roll."

B. FIRST SESSION

On May 8, 1997, Senator Dirk Kempthorne introduced S. 730, a bill to make retroactive, to certain Medal of Honor recipients, the special pension provided for persons entered and recorded on Army, Navy, Air Force, and Coast Guard Medal of Honor Roll. Those recipients were three individuals who were presented the Medal of Honor in January 1997, for acts of gallantry during World War II.

On July 25, 1997, the Committee held a hearing on S. 730 and other pending legislation. At that hearing, the Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 730. On that date, the Committee voted to report S. 730 favorably to the Senate. No further action was taken on S. 730 by the Committee during the First Session. However, provisions essentially identical to those of S. 730, as ordered reported by the Committee on October 7, 1997, were contained in section 577 of the "National Defense Authorization Act for Fiscal Year 1998," presented to the President on November 6, 1997, and signed into law by the President as Public Law 105–85 on November 18, 1997.

On July 15, 1997, Chairman Specter introduced S. 1017 at the request of the Administration. S. 1017 would have reinstated a previously repealed presumption that veterans over the age of 65 who are in nursing homes are permanently and totally disabled for purposes of eligibility for pension benefits. No action was taken on S. 1017 during the 105th Congress.

C. SECOND SESSION

On July 28, 1998, the Committee met in open session to consider pending legislation. Among the bills considered was S. 730, as amended. As amended, the bill would have, among other things, increased from $400 to $600 per month the amount of the special pension paid to persons on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll. In addition, it would have, for years after the year of enactment, indexed the special pension to provide for an "automatic" annual adjustment to the pension equal to the percentage

increase (or decrease) provided to Social Security benefits recipients under title II of the Social Security Act. On that date, the Committee voted to report S. 730, as amended, favorably to the Senate. On September 21, 1998, the bill was reported (S. Rept. 105–339).

As noted above, on August 3, 1998, the House passed a measure, H.R. 4110, containing a cost-of-living adjustment in compensation and DIC rates and a number of other provisions relating to veterans' educational benefits, the Court of Veterans Appeals, and other matters. On September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, a cost-of-living adjustment bill, as reported by the Committee, and then passed H.R. 4110, by voice vote, as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add to it a number of provisions. Among them was a provision (at section 301) to increase the Medal of Honor special pension from $400 to $600 per month. H.R. 4110 as so amended, however, did not include a provision to "index" the special pension. On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

Finally, as detailed in section II.B., above, subtitle B of Title VIII of the "Transportation Equity Act for the 21st Century" (Public Law 105–178), contained provisions which barred VA compensation for tobacco-related disabilities. It also contained a provision relating to VA pension: section 8206 of the "Transportation Equity Act for the 21st Century" increased by $600 annually the allowances provided to pension-eligible veterans in need of regular aid and attendance under sections 1521 and 1536 of title 38, United States Code.

V. HEALTH CARE

A. OVERVIEW

VA administers a national health care system which provides complete medical, hospital, and rehabilitative services for the care and treatment of eligible veterans. The VA health care system is a national system of teaching hospitals, general and specialty clinics, research centers, nursing homes, readjustment counseling centers, and other facilities, providing a broad range of inpatient and outpatient health care services to eligible veterans.

In fiscal year 1997, VA provided health care through 22 Veterans Integrated Service Networks (VISNs) comprised of 172 hospitals (down from 173 in fiscal year 1996), 438 outpatient clinics (up from 398), 131 nursing home units (down from 133), and 40 domiciliary care facilities (unchanged from fiscal year 1996). As part of its national health care network, the VA health care system also provides mental health services to eligible veterans through 206 readjustment counseling centers (Vet Centers). In fiscal year 1997, VA provided inpatient care to 826,846 inpatients (down from 960,524 in fiscal year 1996) and conducted 31.92 million outpatient visits (up from 29.85 million in fiscal year 1996) in VA and contract facilities.

All veterans are eligible to receive VA medical care services. Certain veterans, however, are entitled to *priority* access, as specified in the "Veterans' Health Care Eligibility Reform Act of 1996" (Title I of Public Law 104–262), in the following order of priority:

1. VA "shall furnish" (to the extent of, and as provided in advance by, appropriations) hospital care and medical services, and "may furnish" nursing home care, to all service-connected veterans for their service-connected conditions;
2. VA "shall furnish" (to the extent of, and as provided in advance by, appropriations), hospital care and medical services, and "may furnish" nursing home care, to veterans with service-connected disabilities rated at 50 percent or above for all conditions;
3. VA "shall furnish" (to the extent of, and as provided in advance by, appropriations), hospital care and medical services, and "may furnish" nursing home care, to:

(a) veterans with service-connected disabilities rated at less than 50 percent;

(b) veterans whose discharge from service was due to disability incurred or aggravated in the line of duty;

(c) veterans receiving (or entitled to receive) compensation for disabilities incurred while receiving medical care from VA;

(d) former prisoners of war;

(e) veterans of the Mexican border period or World War I;

(f) veterans exposed to toxic substances, radiation, or environmental hazards; and

(g) veterans unable to defray the expenses of care;

4. VA may provide hospital care, medical services, and nursing home care to other veterans to the extent resources and facilities are available, but subject to the requirement that the veteran make "copayments" as specified by statute.

The statute further specified that VA would establish a system under which veterans would be annually enrolled for VA care in the following order of priority:

1. Veterans with service-connected disabilities rated 50 percent or higher;
2. Veterans with service-connected disabilities rated 30 percent or 40 percent;
3. Veterans who are former prisoners of war, veterans with service-connected disabilities rated 10 percent or 20 percent, veterans discharged from service for a disability incurred or aggravated in the line of duty, and veterans receiving (or entitled to receive) compensation for disabilities incurred while receiving medical care or vocational rehabilitation services from VA;
4. Veterans who are receiving increased pension due to their need for regular aid and attendance or by reason of being permanently housebound, and other veterans who are catastrophically disabled;
5. Veterans unable to defray the expenses of necessary care as determined by an income falling below a means-tested threshold;
6. Veterans of the Mexican border period or World War I, and veterans exposed to toxic substances, radiation, or environmental hazards; and
7. all other veterans.

Finally, section 8104(a)(2) of title 38, United States Code, provides that no funds may be appropriated for any fiscal year, and VA may not obligate or expend funds (other than for advance planning or design), for any major medical facility project or any major medical facility lease, unless funds for that project or lease have been specifically authorized by law.

B. FIRST SESSION

1. Persian Gulf War Veterans

As noted above, the Committee held 12 hearings during the First Session of the 105th Congress on issues related to Persian Gulf War veterans. During the majority of those hearings—particularly those at which VA or DOD witnesses appeared, and those at which veterans and their family members appeared --significant attention was devoted to VA and DOD programs for meeting the health care needs of Persian Gulf War veterans. Also as noted above, during the First Session of the 105th Congress, the Committee launched its SIU investigation into issues raised by Persian Gulf War veterans.

As detailed in section III.B.3, above, one bill relating to Persian Gulf War veterans' health care issues was introduced during the First Session: S. 1320, the proposed "Persian Gulf War Veterans Act of 1997," introduced by Ranking Minority Member Rockefeller on October 24, 1997. No action was taken on S. 1320 during the First Session.

2. Priority Access to VA Medical Care

On February 27, 1997, Senator Charles S. Robb introduced S. 374, to extend eligibility for hospital care and medical services to veterans who have been awarded the Purple Heart, and for other purposes. S. 374 would have created a new category of priority for access to VA health care services: veterans who were recipients of the Purple Heart. Under S. 374, such veterans would have been placed in the priority scheme outlined above in a priority category above veterans unable to defray the expenses of care and below those who had been exposed to toxic substances, radiation, or environmental hazards in service.

The Committee took no action on S. 374 during the 105th Congress.

3. Medical Personnel Matters

On January 21, 1997, Senator Daniel K. Inouye introduced S. 161, a bill to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration, and for other purposes. The bill would have modified statutory restrictions relating to the employment of psychologists by VA. No action was taken on S. 161 during the 105th Congress.

On May 15, 1997, the Committee held a hearing on alleged sexual harassment in VA. The Committee received testimony from Senator Lauch Faircloth; four VA employees claiming to have been victims of sexual harassment in VA; VA management witnesses; VA's Acting Inspector General; the Director of the Office of Federal Operations of

the Equal Employment Opportunity Commission (EEOC); and representatives of two Federal employee unions.

On May 23, 1997, Senator Bob Graham introduced S. 801, the proposed "Department of Veterans Affairs Employment Discrimination Prevention Act." As introduced, S. 801 would have:

1. Created within VA an Office of Employment Discrimination Complaint Resolution (OEDCR) headed by an official reporting directly to VA's Secretary or Deputy Secretary;
2. Provided that the OEDCR would be responsible for VA's employment discrimination complaint resolution process;
3. Provided that OEDCR's decisions would be final agency decisions on discrimination complaints, appealable to EEOC or the appropriate United States District Court;
4. Provided for the appointment of administrative law judges, investigators, and counselors by OEDCR;
5. Established a process for filing, investigating and evaluating complaints of employment discrimination and sexual harassment; and
6. Extended "whistleblower" protections to Veterans Health Administration employees.

On July 25, 1997, the Committee held a hearing on S. 801 and other pending legislation. At that hearing, the Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 801, as amended. As amended, the bill would have:

1. Mandated that VA establish an "objective, fair, and effective" employment discrimination dispute resolution process;
2. Created an attorney-staffed Office of Employment Discrimination Complaint Adjudication to issue final agency decisions on all employment discrimination complaints;
3. Mandated that, in cases where a senior VA official is accused of employment discrimination, employee complaints would be investigated by VA's Inspector General;
4. Required that, in other cases, counseling and investigation functions would continue to be provided by an independent, full-time cadre of professional staff at the facility where the alleged harassment took place; and
5. Required that an independent contractor monitor VA compliance and report to Congress in 18 months.

On that date, the Committee voted to report S. 801 favorably to the Senate.

As detailed below, the Committee also voted on October 7, 1997, to report S. 714, a bill pertaining to subject matter not related to S. 801. Subsequently, S. 714 was passed by the Senate (on November 5, 1997) and then amended, and passed, by the House (on November 9, 1997). Among the amendments added to S. 714 by the House was a provision, Title I of S. 714, as amended, which incorporated provisions derived from S. 801 as ordered reported by the Committee on October 7, 1997. On November 10, 1997, the Senate agreed to the House amendments to S. 714 (including Title I, incorporating provisions derived from S. 801), clearing the measure for the President. On November 13, 1997, S. 714, the "Veterans' Benefits Act of 1997," was presented to the

President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

4. Construction Authorization and Property Management

On February 12, 1997, Senator Daniel K. Akaka introduced S. 309, a bill to prohibit the establishment or collection of parking fees by the Secretary of Veterans Affairs at any parking facility connected with a Department of Veterans Affairs medical facility operated under a health-care resources sharing agreement with the Department of Defense.

On July 25, 1997, the Committee held a hearing on S. 309 and other pending legislation. At that hearing, the Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 309. On that date, the Committee voted to report S. 309 favorably to the Senate. No further action was taken on S. 309 by the Committee during the First Session.

The Department of Veterans Affairs did not formally request legislation to authorize major medical facility construction projects or major medical facility leases during the First Session of the 105th Congress. Notwithstanding, when the Committee held the above-referenced hearing on July 25, 1997, it requested the views of VA and various veterans service organizations on a Committee Print that would have authorized $34.6 million in appropriations in fiscal years 1998 and 1999 for major medical facility construction projects, and $14.323 million in fiscal years 1998 and 1999 for major medical facility leases. The Committee Print also would have authorized the following projects:

1. Completion of the seismic corrections construction project at the VAMC in Memphis, Tennessee;
2. Leases for satellite outpatient clinics in Jacksonville, Florida; Boston, Massachusetts; Canton, Ohio; and Portland, Oregon; and
3. Leases for information resources management field offices in Birmingham, Alabama; and Salt Lake City, Utah.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 986, as amended. As amended, S. 986 incorporated the construction authorization provisions summarized above. On that date, the Committee voted to report S. 986 favorably to the Senate, and on November 10, 1997, the bill was reported (S. Rept. 105–153).

As detailed below, the Committee also voted to report S. 714, a bill pertaining to subject matter not related to S. 986, on October 7, 1997. Subsequently, S. 714 was passed by the Senate (on November 5, 1997) and then amended, and passed, by the House (on November 9, 1997). Among the amendments added to S. 714 by the House was a provision, Title III of S. 714, as amended, which:

1. Incorporated the construction authorization provisions of S. 986 as ordered reported by the Committee on October 7, 1997;
2. Added an authorization of seismic corrections and clinical improvements construction project at the McClellan Hospital at Mather Field, Sacramento, California;

3. Added an authorization of an outpatient clinic improvements projects at Mare Island, Vallejo, California, and Martinez, California;

4. Increased the major medical facility lease authorization for fiscal years 1998 and 1999 from $14.323 million to $15.705 million; and

5. Directed that the major construction projects in Sacramento, Vallejo, and Martinez, California be carried out only with previously appropriated funds.

On November 10, 1997, the Senate agreed to the House amendments to S. 714 (including Title III), clearing the measure for the President. On November 13, 1997, S. 714, the "Veterans' Benefits Act of 1997,"was presented to the President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

An additional construction authorization, relating to the construction of a parking garage in Cleveland, Ohio, was approved by the House and Senate, and presented and signed by the President, on June 12, 1997, as Chapter 10 of an "Act Making Emergency Supplemental Appropriations for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, including those in Bosnia, for the Fiscal Year ending September 30, 1997, and for other purposes" (Public Law 105–18).

5. Legislation to Extend Expiring Legal Authorities

The Department of Veterans Affairs did not formally request legislation to reauthorize health care-related legal authorities scheduled to expire during 1997. Notwithstanding, when the Committee held a hearing on July 25, 1997, on pending legislation, it requested the views of VA and various veterans service organizations on a Committee Print that would have extended the following authorities scheduled to expire during 1997:

1. VA authority under 38 U.S.C. § 1720A(e)(3) to contract for alcohol and drug abuse treatment services from halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities;

2. VA authority under 38 U.S.C. § 1720C(a) to operate a pilot program to provide patients with noninstitutional alternatives to nursing home care;

3. VA authority under 38 U.S.C. § 3735(c) to convey acquired real property to nonprofit organizations for shelters primarily for homeless veterans and their families;

4. VA authority under 38 U.S.C. § 7618 to carry out a Health Professional Scholarship Program;

5. VA authority under 38 U.S.C. § 8169 to enter into enhanced use leases of VA real property;

6. VA authority under sections 7 and 8 of Public Law 102–54 to conduct a demonstration program to provide compensated work therapy and therapeutic transitional housing to homeless veterans;

7. VA authority under sections 2, 4 and 12 of Public Law 102–590 to (a) operate up to eight demonstration programs for the provision of comprehensive services to homeless veterans, and (b) make grants to public or nonprofit entities for the provision of outreach, rehabilitative, vocational counseling and training, and transitional housing assistance services to homeless veterans; and

8. Department of Labor authority under 42 U.S.C. § 11450, commonly referred to as the "McKinney Act," to conduct, directly or through grants, homeless veterans' reintegration projects.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 714, as amended. As amended, S. 714 incorporated the reauthorizations summarized above. On that date, the Committee voted to report S. 714 favorably to the Senate, and on October 30, 1997, the bill was reported (S. Rept. 105–123). On November 5, 1997, S. 714 was passed by the Senate.

On November 9, 1997, the House amended S. 714 without modifying the above-summarized reauthorization provisions, and then passed S. 714, as amended. On November 10, 1997, the Senate agreed to the House amendments to S. 714, clearing the measure for the President. On November 13, 1997, S. 714, the "Veterans' Benefits Act of 1997," was presented to the President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

6. Technical Amendments and Corrections

"Veterans' Health Care Eligibility Reform Act of 1996"

Enactment of the "Veterans' Health Care Eligibility Reform Act of 1996" (Public Law 104–262) by the 104th Congress put into place the "enrollment by priority" system of VA health care eligibility which is summarized in the Overview section above. Various "eligibility reform" proposals were considered by the Committee, among them S. 1345 (introduced by then-Chairman Alan Simpson on October 19, 1995), S. 1563 (introduced by then-Chairman Simpson and Ranking Minority Member Rockefeller at the request of veterans service organizations on February 7, 1996), and H.R. 3118 (a bill passed by the House on July 30, 1996). The legislation was complex and, as enacted as Public Law 104–262, contained a number of technical errors.

On July 25, 1997, the Committee held a hearing on pending legislation, including a Committee Print of draft legislation prepared by Committee staff with the technical assistance of VA. The Committee Print contained the following clarifications:

1. Public Law 104–262 provided that veterans who had not been adjudicated as service-connected by VA, but who had been discharged from service due to a "compensable" disability, would have the same access to VA health care services as the service connected. The Committee subsequently learned that when service personnel are discharged for disability, it is not stated whether the disability is "compensable." The clarification would have struck the term "compensable" to provide that veterans discharged from service due to disability, not due to "compensable" disability, would have priority access to VA care.

2. Prior to enactment of Public Law 104–262, VA provided care for "disabilities." Public Law 104–262, however, authorized VA to provide care without regard to whether that care addressed a particular "disability." A separate authority, 38 U.S.C. § 1717(a), under which VA provides home health care services, carries over the requirement that care address a "disability," creating a legal situation whereby hospital care, outpatient care, and other health care services need not

address a "disability," but home health services must. The clarification would have struck the reference to a "disability" in section 1717(a).

3. Prior to passage of Public Law 104–262, section 1720 of title 38, United States Code, had authorized VA to transfer VA *inpatients* to non-VA nursing home care, and that provision of law had been unaffected by Public Law 104–262. One of the premises of eligibility reform, however, had been to remove nonclinical reasons for placing patients into inpatient care. That premise was countered by section 1720's requirement that a patient be placed into inpatient care before he or she could be referred to non-VA nursing home care. The clarification would have modified section 1720 to allow VA patients, not VA "hospital, nursing home, or domiciliary" patients, to be so transferred.

4. Public Law 104–262 had repealed a previously imposed "sunset" of VA authority to provide adult day health care (ADHC) services, but that authority allowed such services to be provided only to patients to whom VA had authority to provide contract nursing home care services. The intent of eligibility reform had been to afford VA flexibility to provide the medically appropriate level of care, whatever that type of care might be, to all enrolled VA patients. The clarification would have eliminated the requirement that patients be eligible for contract nursing home care services before they could receive ADHC services and would have allowed such services under VA's general authority to provide "hospital care and medical services" to enrolled, eligible veterans.

5. Section 8153 of title 38, United States Code, as amended by Public Law 104–262, authorized VA to enter into "sharing agreements" with non-VA health care providers "without regard to any law or regulation that would otherwise require the use of competitive procedures for procuring the resource." Public Law 104–262, however, was ambiguous in terms of the intended scope of the term "regulation." The clarification would have removed this ambiguity by adding the words "(including any Executive Order, circular, or other administrative policy)" to amplify the meaning of "regulation" as adopted by Public Law 104–262.

6. Public Law 104–262 authorized VA to adopt "simplified procedures" to administer its "sharing agreement" authority. The statute, however, directed that VA's simplified procedures "permit all responsible sources" to compete. The clarification would have eliminated the requirement that "all" be allowed to compete and allow VA to limit the number of bids it would consider.

7. VA had been authorized, under its "sharing agreement" authority, to provide care to other providers' nonveteran patients in return for reciprocal arrangements, but such reciprocal arrangements had to provide that veterans would receive priority care in the non-VA sharing agreement partner's facility. This requirement discouraged such arrangements. Accordingly, the clarification would have required only that all such agreements not diminish care to veterans.

At the July 25, 1997, hearing, the Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 986, as amended. As amended, S. 986

incorporated the clarifications to the "Veterans' Health Care Eligibility Reform Act of 1996" summarized above. On that date, the Committee voted to report S. 986 favorably to the Senate, and on November 10, 1997, the bill was reported (S. Rept. 105–153).

On October 7, 1997, the Committee also voted to report S. 714, a bill pertaining to subject matter not related to S. 986. Subsequently, S. 714 was passed by the Senate (on November 5, 1997) and then amended, and passed, by the House (on November 9, 1997). Among the amendments added to S. 714 by the House was a provision, section 402, which contained the following of the above-summarized clarifications:

1. The clarification striking the term "compensable" to allow health care access to veterans discharged from service due to disability;
2. The clarification striking the reference to a veteran's "disability" in the home health care eligibility statute;
3. The clarification modifying 38 U.S.C. § 1720 to allow VA patients—not VA "hospital, nursing home, or domiciliary" patients—to be transferred to non-VA nursing home care;
4. The clarification of the term "regulation" in VA's "sharing agreement" authority; and
5. The clarification allowing VA to limit the number of prospective partners who might compete to participate in VA "sharing agreements."

On November 10, 1997, the Senate agreed to the House amendments to S. 714, clearing the measure for the President. On November 13, 1997, S. 714, the "Veterans' Benefits Act of 1997," was presented to the President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

No further action was taken on the remaining clarifications during the 105th Congress.

Act Making Fiscal Year 1997 Appropriations for the Departments of Veterans Affairs, and Housing and Urban Development, and for Sundry Independent Agencies

As summarized above, the 104th Congress mandated that the following benefits be provided to Vietnam veterans' children who are born with spina bifida as part of Public Law 104–204 (September 26, 1996):

1. Payment of a monthly monetary allowance, varying by degree of disability suffered by the child;
2. Health care for any disability associated with the person's spina bifida; and
3. Vocational training, job placement and post-job-placement services.

On July 15, 1997, Chairman Specter introduced S. 1018 at the request of the Administration. S. 1018 would have made technical and clarifying amendments to those provisions of Public Law 104–204.

On October 7, 1997, the Committee voted to report S. 714, a bill not related to S. 1018, but which was subsequently amended by the House, as summarized above. Included in those amendments were technical and clarifying amendments derived from S. 1018. On November 10, 1997, the Senate agreed to the House amendments to S. 714, clearing

the measure for the President. On November 13, 1997, S. 714, the "Veterans' Benefits Act of 1997," was presented to the President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

7. Other Health Care Legislation

As noted above, on July 7, 1997, Chairman Specter introduced S. 987 at the request of the Administration. S. 987 would have authorized VA to make a cost-of-living adjustment in compensation and DIC benefits. S. 987 also contained other provisions, among them one to authorize VA's Veterans Benefits Administration (VBA) to reimburse VA's Veterans Health Administration (VHA) for costs incurred in providing medical examinations to veterans in connection with applications for compensation or other benefits.

On July 25, 1997, the Committee held a hearing on S. 987 and other pending legislation. At that hearing, the Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 987, as amended. As amended, S. 987 excised the authorization of intra-VA fund transfers for VHA-provided medical exams in connection with applications for compensation or other benefits. Those provisions, however, were added to S. 986, as amended, which was also considered during the Committee's October 7, 1997, meeting. The Committee voted to report S. 986, as amended to include those provisions, favorably to the Senate, and on November 10, 1997, the bill was reported (S. Rept. 105–153).

As noted above, certain provisions of S. 986 were incorporated into S. 714 when that bill was amended by the House on November 9, 1997, and, later, enacted as Public Law 105–114. A provision authorizing intra-VA fund transfers for VHA-provided medical exams in connection with applications for compensation or other benefits was not included in S. 714 as so amended by the House.

On July 9, 1997, Chairman Specter introduced S. 999, a bill to specify the frequency of VA-provided screening mammograms to women veterans.

On July 25, 1997, the Committee held a hearing on S. 999 and other pending legislation. At that hearing, the Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 999. On that date, the Committee voted to report S. 999 favorably to the Senate, and on November 13, 1997, the bill was reported (S. Rept. 105–158).

As has been detailed, the Committee also voted on October 7, 1997, to report S. 714, a bill pertaining to subject matter not related to S. 999. Subsequently, S. 714 was passed by the Senate (on November 5, 1997) and then amended, and passed, by the House (on November 9, 1997). Among the amendments added to S. 714 by the House was a provision, section 208, which incorporated provisions derived from S. 999 as ordered reported by the Committee on October 7, 1997. On November 10, 1997, the Senate agreed to the House amendments to S. 714 (including section 208, incorporating provisions derived from S. 999), clearing the measure for the President. On November 13,

1997, S. 714, the "Veterans' Benefits Act of 1997," was presented to the President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

As also noted above, on October 7, 1997, the Committee met in open session to consider, among other things, S. 986, as amended. As amended, S. 986 included a provision requiring the President to report, not later than March 1, 1998, on Federal, State, and local plans for responding to medical emergencies arising from potential use by terrorists of weapons of mass destruction, and VA's role in such preparations. On that date, the Committee voted to report S. 986 favorably to the Senate, and on November 10, 1997, the bill was reported (S. Rept. 105–153).

On October 7, 1997, the Committee also voted to report S. 714, a bill pertaining to subject matter not related to S. 986. Subsequently, S. 714 was passed by the Senate (on November 5, 1997) and then amended, and passed, by the House (on November 9, 1997). Among the amendments added to S. 714 by the House was a provision, section 210, which incorporated provisions derived from S. 986 requiring a Presidential report on weapons of mass destruction preparedness. On November 10, 1997, the Senate agreed to the House amendments to S. 714 (including section 210, incorporating provisions derived from S. 986), clearing the measure for the President. On November 13, 1997, S. 714, the "Veterans' Benefits Act of 1997," was presented to the President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

C. SECOND SESSION

1. Persian Gulf War Veterans

As detailed in section III.C.2., on July 27, 1998, Ranking Minority Member Rockefeller introduced S. 2358, the proposed "Persian Gulf War Veterans Act of 1998," a bill which incorporated, and added to, provisions contained in S. 1320. Like S. 1320, S. 2358 would have:

1. Codified VA authority to designate, based on sound medical and scientific evidence, diagnosed and undiagnosed illnesses presumed to be associated with Persian Gulf War service;
2. Compelled VA to enter into an agreement with NAS to (a) identify environmental and other agents to which Persian Gulf War veterans had been exposed; (b) identify illnesses which Persian Gulf War veterans suffer; (c) analyze associations, if any, between various environmental exposures and disease; and (d) analyze potential treatment models;
3. Compelled VA to monitor the health status of Persian Gulf War veterans; and
4. Required the establishment of research and outreach programs to assist veterans of the Persian Gulf War.

In addition, S. 2358 would have:

1. Extended VA authority to provide priority access for care for Persian Gulf War veterans' "undiagnosed illnesses" to December 31, 2001; and
2. Extended VA authority to conduct diagnostic testing and medical examinations of Persian Gulf War veterans' spouses and children.

On July 28, 1998, the Committee met in open session to consider, among other things, S. 2358. On that date, the Committee voted to report S. 2358 favorably to the Senate, and on October 2, 1998, the bill was reported (S. Rept. 105–362).

As detailed in section III.C.2., above, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2358. The Senate then passed H.R. 4110, by voice vote, as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add a number of other provisions. Among the provisions added to H.R. 4110 were provisions (at Title I) derived from S. 2358, the proposed "Persian Gulf War Veterans Act of 1998." On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

As also detailed in section III.C.2., above, provisions similar to those contained in Title I of the "Veterans Programs Enhancement Act of 1998" were included, as the "Persian Gulf War Veterans Act of 1998," in Title XVI of Division C of Public Law 105–277, an "Act Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999," which was approved by the Senate, and signed by the President, before those actions were taken with respect to the "Veterans Programs Enhancement Act of 1998."

2. Construction Authorization and Property Management

On April 30, 1998, Senator Graham (for himself and Senator Mack) introduced S. 2012, to name the Department of Veterans Affairs medical center in Gainesville, Florida, the "Malcom Randall Department of Veterans Affairs Medical Center."

On September 17, 1998, Chairman Specter introduced S. 2496, to designate the Department of Veterans Affairs medical center in Aspinwall, Pennsylvania, as the "H. John Heinz III Department of Veterans Affairs Medical Center."

On October 2, 1998, Senator DeWine (for himself and Senator Glenn) introduced S. 2541, to name the Department of Veterans Affairs outpatient clinic in Columbus, Ohio, the "Chalmers P. Wylie Veterans Outpatient Clinic."

The Department of Veterans Affairs did not formally request legislation to authorize major medical facility construction projects or major medical facility leases during the Second Session of the 105th Congress.

On July 28, 1998, the Committee met in open session to consider, among other things, S. 1822, as amended to incorporate a provision to designate the Department of Veterans Affairs medical center in Aspinwall, Pennsylvania, the "H. John Heinz III Department of Veterans Affairs Medical Center" (which provision was substantially the same as that contained in S. 2496) and, in addition, the following provisions relating to VA medical construction and property management:

1. Authorization of major medical construction projects in San Juan, Puerto Rico; Long Beach, California; Lebanon, Pennsylvania; and Auburn and Merced, California;

2. Authorization of a major medical (parking garage) project in Denver, Colorado;

3. Authorization of major medical leases in Oakland Park, Florida; Daytona Beach, Florida; and Baton Rouge, Louisiana;

4. A provision to raise the amount of a lease deemed to be "major," and which thereby triggers the requirement for a separate statutory authorization, from $300,000 per year to $600,000 per year; and

5. A provision to require that VA report on land use issues at the West Los Angeles VA Medical Center.

On that date, the Committee voted to report S. 1822, as so amended, favorably to the Senate. On September 22, 1998, the bill was reported (S. Rept. 105–344).

As detailed above, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, and then passed H.R. 4110, by voice vote, as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add a number of other provisions. Among the provisions so added were the above-summarized provisions reported by the Committee on September 22, 1998. In addition, the House added the following provisions relating to VA medical construction and property management to H.R. 4110:

1. Authorization of major medical construction projects in Washington, D.C.; Palo Alto, California; Cleveland (Wade Park), Ohio; Tucson, Arizona; Dallas, Texas; and Tampa, Florida;

2. A provision raising the cost of a parking garage construction project deemed to be "major," and which thereby triggers the requirement for a separate statutory authorization, from $3 million to $4 million;

3. A provision derived from S. 309 to ban staff parking fees at the Spark M. Matsunaga Department of Veterans Affairs Medical and Regional Office Center in Honolulu, Hawaii;

4. A provision requiring VA to report on issues pertaining to charging VA employees for parking;

5. A provision derived from S. 2012, to name the Department of Veterans Affairs medical center in Gainesville, Florida, the "Malcom Randall Department of Veterans Affairs Medical Center;" and

6. A provision derived from S. 2541, naming the Department of Veterans Affairs outpatient clinic in Columbus, Ohio, the "Chalmers P. Wylie Veterans Outpatient Clinic."

On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

3. Other Medical Care and Medical Administration Matters

On March 23, 1998, Chairman Specter (for himself and Ranking Minority Member Rockefeller and Senators Thurmond, Jeffords,

Murkowski, Akaka, Wellstone, Lieberman, and Murray) introduced S. 1822, to authorize the provision of health care services to veterans who had been treated in service with nasopharyngeal radium irradiation.

On May 22, 1998, Ranking Minority Member Rockefeller (for himself and Senator Mikulski) introduced S. 2115, the proposed "Department of Veterans Affairs Primary Care Providers Incentive Act of 1998." The bill would have established scholarship and education loan debt reduction programs at VA to facilitate the employment of primary care and other health care professionals by the Veterans Health Administration.

On October 10, 1998, Senator Daschle introduced S. 2619, the proposed "Veterans' Access to Emergency Care Act of 1998." The bill would have improved access of veterans to emergency medical care in non-VA medical facilities.

On July 28, 1998, the Committee met in open session to consider pending legislation. Among the measures considered was S. 1822, as amended to incorporate a number of additional provisions, but without modifying the bill's original provisions relating to the eligibility of veterans treated in service with nasopharyngeal radium irradiation for VA health care services. On that date, the Committee voted to report S. 1822, as amended, favorably to the Senate. On September 22, 1998, S. 1822 was reported (S. Rept. 105–344).

As noted above, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, and then passed H.R. 4110, by voice vote, as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add a number of other provisions. Among the provisions so added to H.R. 4110 were:

1. A provision (at section 901) derived from S. 1822, relating to the eligibility of veterans treated in service with nasopharyngeal radium irradiation for VA health care services;

2. Provisions (at title VIII) derived from S. 2115, the proposed "Department of Veterans Affairs Primary Care Providers Incentive Act of 1998;"

3. A provision (at section 902) extending VA authority to counsel and provide medical treatment to veterans who were victims of sexual trauma in service;

4. A provision (at section 903) requiring VA to develop job-performance standards for officials responsible for the management of resources relating to special disability care programs;

5. A provision (at section 904) authorizing VA use of forfeited pension funds to defray VA nursing home operating expenses;

6. A provision (at section 905) requiring that VA submit to Congress a report on nurse locality pay issues;

7. A provision (at section 906) requiring that VA report to Congress annually on activities relating to preparation for and participation in programs for emergency medical response to domestic attacks with weapons of mass destruction; and

8. A provision authorizing the interim appointment of the Under Secretary for Health (until June 30, 1999).

On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans' Programs Enhancement Act of 1998."

No action was taken on S. 2619, the proposed "Veterans Access to Emergency Care Act of 1998" during the 105th Congress.

VI. Readjustment, Educational Assistance, and Vocational Rehabilitation Benefits

A. OVERVIEW

VA readjustment benefits consist of various types of assistance for eligible veterans, dependents, and survivors. The purposes of such assistance are to help the veteran readjust to civilian life in a productive capacity, to compensate for the loss of educational or vocational opportunities during the veteran's period of service, to provide incentives for military service, and to provide vocational rehabilitation opportunities to those whose ability to obtain employment has been impaired as a result of service-connected disability.

Vocational rehabilitation opportunities are provided under chapter 31 of title 38, United States Code, to service-connected disabled veterans. Educational assistance is also provided by VA, under chapter 35 of title 38, to dependents of those veterans having permanent and total service-connected disabilities, and to the survivors of veterans whose deaths were service connected. Such assistance is intended to compensate for service-connected impairment of the veteran's ability to bear the cost of education for his or her family members and, in the case of the veteran's death, to assist the surviving spouse in attaining economic self-sufficiency. Finally, vocational training, job placement, and post-job-placement services, as well as health care benefits and a monetary allowance, are provided to Vietnam veterans' children with spina bifida under chapter 18 of title 38, United States Code.

Under chapter 30 of title 38, educational assistance is provided to members of the All-Volunteer Force who first entered active duty after June 30, 1985, and did not choose to decline to participate in this program. The rate of basic pay of those who participate in this program, commonly referred to as the Montgomery GI Bill, is reduced by $100 for each of the first 12 months of the servicemember's active duty service. During 1998, the monthly benefit for veteran students/trainees who had served at least three years and who were participating in full-time study was increased from $400 to $528 per month; for full-time-study veteran students/trainees whose enlistment terms were two years, the monthly benefit was increased from $325 to $429.

Post-Vietnam-era veterans (those who entered the service after December 31, 1976, but before July 1, 1985, and who were otherwise eligible) were entitled to participate in the Veterans Education Assistance Program (VEAP) specified in chapter 32 of title 38. Under VEAP, participants contributed up to $2,300 to an education account,

and these contributions were matched by the Department of Defense on a two-for-one basis when the veteran enrolled in an approved course of education. The "Veterans' Benefits Improvement Act of 1996," Public Law 104–275, authorized VEAP-eligible veterans to enroll for generally more advantageous Chapter 30 (Montgomery GI Bill) benefits.

Until its expiration on December 31, 1989, educational assistance was provided under chapter 34 of title 38 to eligible Vietnam-era veterans, and to other veterans and servicemembers who served between February 1, 1955, and December 31, 1976, and who were otherwise eligible. Finally, VA administers a program for the educational assistance of members of the Selected Reserve under chapter 106 of title 10. That program is funded by the Departments of Defense and Transportation.

In fiscal year 1998, approximately 296,791 All-Volunteer Force servicemembers and veterans received benefits under chapter 30 of title 38; 75,219 reservists received benefits under chapter 106 of title 10; 53,004 service-connected disabled veterans enrolled in rehabilitation under chapter 31 of title 38; and 42,706 spouses, surviving spouses, and children received benefits under chapter 35 of title 38.

B. FIRST SESSION

As outlined above, during the 104th Congress, provisions offering the following benefits to children of Vietnam veterans who are born with spina bifida were enacted as part of Public Law 104–204:

1. Payment of a monthly monetary allowance, varying by degree of disability suffered by the child;
2. Health care for any disability associated with the person's spina bifida; and
3. Vocational training, job placement, and post-job-placement services.

On July 15, 1997, Chairman Specter introduced S. 1018 at the request of the Administration. S. 1018 would have made technical and clarifying amendments to these provisions of Public Law 104–204. As noted above, on October 7, 1997, the Committee voted to report S. 714, a bill not related to S. 1018. Subsequently, S. 714 was passed by the Senate (on November 5, 1997) and then amended, and passed, by the House (on November 9, 1997). Among the amendments added to S. 714 by the House were technical and clarifying amendments (at section 404) derived from S. 1018. On November 10, 1997, the Senate agreed to the House amendments to S. 714, clearing the measure for the President. On November 13, 1997, S. 714, the "Veterans' Benefits Act of 1997," was presented to the President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

In addition to the technical and clarifying amendments introduced in S. 1018, the Committee considered the following additional technical and clarifying amendments to the "Veterans' Benefits Improvements Act of 1996" (Public Law 104–275) at its hearing on July 25, 1997:

1. Technical amendments to Public Law 104–275 modifications to the "two year" rule (specifying that non-degree-granting institutions

must have operated for two years before veterans will be eligible for benefits while attending such institutions);

2. A technical correction to Public Law 104–275 modifications to provisions governing the circumstances when educational assistance benefits will be paid to veterans taking open circuit television courses as part of in-residence study;

3. A technical correction to Public Law 104–275 modifications to provisions governing eligibility for benefits while attending "cooperative training programs;" and

4. Technical corrections to Public Law 104–275 modifications to provisions governing a veteran's conversion from eligibility for Post-Vietnam Era educational assistance benefits to Montgomery GI Bill educational assistance benefits.

The Committee received testimony from VA and various veterans service organizations at the July 25, 1997, hearing.

On October 7, 1997, the Committee met in open session to consider pending legislation. Among the bills considered was S. 986, as amended, to include, among other provisions, the technical amendments summarized above. The Committee voted to report S. 986, as amended, favorably to the Senate, and on November 10, 1997, the bill was reported (S. Rept. 105–153).

As detailed above, some provisions derived from S. 986, as amended, were incorporated into amendments to S. 714 when that bill was approved by the House on November 9, 1997. The above-summarized technical and clarifying amendments were among the provisions added to S. 714 (in section 401). S. 714, as amended by the House was agreed to by the Senate on November 10, 1997, presented to the President on November 13, 1997, and signed into law, as the "Veterans' Benefits Act of 1997" (Public Law 105–114) on November 21, 1997.

C. SECOND SESSION

On July 8, 1998, Senator Bob Graham (for himself and for Senator Coverdell) introduced S. 2278, the proposed "Veterans' Educational Benefits Protection Act of 1998." The bill would have barred the inclusion of veterans' educational assistance benefits for purposes of determining eligibility for Federal education financial aid programs.

The Committee did not take action on S. 2278 during the 105th Congress.

No other bills relating to readjustment, educational assistance, or vocational rehabilitation benefits were referred to the Committee during the Second Session of the 105th Congress. As detailed above, however, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, and then passed H.R. 4110, by voice vote, as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add a number of other provisions. Among the provisions so added to H.R. 4110 were:

1. A provision (at section 201), derived from H.R. 4110 as originally passed by the House on August 3, 1998, modifying the way VA

calculates certain fees paid to educational institutions that enroll veterans;

2. A provision (at section 202), derived from H.R. 4110 as originally passed by the House, making it optional, rather than mandatory, for a veteran-student participating in a work-study program to elect an advance payment of 40 percent educational assistance benefits;

3. A provision (at section 203), derived from H.R. 4110 as originally passed by the House, allowing servicemembers to use college-granted credit for life experience in meeting eligibility requirements for educational assistance benefits;

4. A provision (at section 204), derived from H.R. 4110 as originally passed by the House, allowing veteran-students in flight training to continue to receive VA educational assistance if they inadvertently fail to maintain certain flight certificates;

5. A provision (at section 205), derived from H.R. 4110 as originally passed by the House, waiving wage increase and minimum salary requirements for on-the-job training programs provided by State and local governments; and

6. Provisions (at sections 206 and 207), derived from H.R. 4110 as originally passed by the House, requiring VA and military service branches to expand outreach services.

On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

Finally, as detailed in section II.B., above, subtitle B of Title VIII of the "Transportation Equity Act for the 21st Century" (Public Law 105–178), which contained provisions barring the payment of disability compensation in cases where disability is the result of the use of tobacco products, also contained provisions increasing certain educational assistance and other readjustment benefits, as follows:

1. Educational assistance benefits to veterans were increased 20 percent;

2. Maximum adaptive housing assistance grants were increased from $38,000 to $43,000; and

3. Maximum automobile and adaptive automobile equipment grants were increased from $5,500 to $8,000.

The later-enacted "Internal Revenue Service Restructuring and Reform Act of 1998" (Public Law 105–206) added the following educational assistance program enhancements:

1. A 20 percent increase in educational assistance benefits to certain veterans' survivors and dependents; and

2. A 20 percent increase in benefits paid to veterans, and to survivors and dependents, for assistance in apprenticeship and on-the-job training programs.

VII. EMPLOYMENT

A. OVERVIEW

The Department of Labor, Veterans' Employment and Training Service (VETS), has primary responsibility for the implementation of statutory provisions 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 provides for the employment and training of disabled and Vietnam-era veterans. Section 4212 requires that certain Federal contractors and subcontractors take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era. Section 4214 provides for Veterans' Readjustment Appointments (VRAs) within the Federal Government to assist Vietnam veterans, service-disabled Vietnam-era veterans, and veterans who served after the Vietnam era, by (1) making it possible for them to be hired into Federal service noncompetitively, and (2) helping them develop additional skills through a program combining education and training with a regular career appointment.

Chapter 43 of title 38 provides reemployment protection to certain veterans and reservists. Chapter 43 was recodified in 1994 as the "Uniformed Services Employment and Reemployment Rights Act of 1994" (USERRA), Public Law 103–353.

The Office of Personnel Management is responsible for implementing policies to promote maximum employment and job advancement opportunities within Federal service for qualified disabled and Vietnam-era veterans.

B. FIRST SESSION

On July 16, 1997, Senator Chuck Hagel (for himself and for Senators Cleland, Hutchinson, Dorgan, Burns, Roth, Faircloth, Helms, Moynihan, Landrieu, Reid, and Campbell) introduced S. 1021, the proposed "Veterans Employment Opportunities Act of 1997." The bill would have:

1. Required that all Federal hiring competitions, except as otherwise specified, be opened to all "preference eligible" veterans—i.e., those who had served in a combat theater, and those who have service-connected disabilities;
2. Afforded preference eligible veterans protections from reduction-in-force (RIF) personnel actions by barring the classification of any position occupied by a preference eligible veteran as a "single position competitive level" position;
3. Afforded preference eligible veterans additional protections from reduction-in-force personnel actions by granting to preference eligible veterans certain additional "bumping" rights;

4. Required that agencies establish priority placement programs for "RIF'ed" veterans;

5. Established new, uniform appeal procedures, including eased access to judicial remedies;

6. Designated violations of veterans' preference laws as "prohibited personnel practices";

7. Extended veterans' preference rights to non-policy positions in the Executive Office of the President, the legislative and judicial branches, and the Federal Aviation Administration; and

8. Expanded "preference eligible" status to veterans who had served in noncombat, hazardous areas.

No formal action was taken on S. 1021 during the First Session of the 105th Congress.

C. SECOND SESSION

On March 24, 1998, the Committee held a hearing on S. 1021. At that hearing, the Committee received testimony from Senators Chuck Hagel and Max Cleland; from Representative John Mica; from representatives of the General Accounting Office, the Office of Personnel Management, the Veterans' Employment and Training Service of the Department of Labor, and the United States Postal Service; from various veterans service organizations; and from two Federal employee unions.

On July 28, 1998, the Committee met in open session to consider, among other things, S. 1021, as amended. As amended, S. 1021 would have:

1. Deleted provisions requiring that all employment competitions be opened to all preference eligible veterans;

2. Deleted provisions relating to RIF rights;

3. Modified the provision extending preference to the judicial branch to exclude employees of individual judges, and employees of the Chief Judge;

4. Removed the extension of preference eligible status to those who served in "hazardous duty" areas;

5. Expanded veterans' employment opportunities with Federal contractors by strengthening reporting requirements; and 6.Expanded veterans' employment opportunities with Federal contractors by adding Persian Gulf War veterans to the statutory listing of veterans to whom Federal contractors must conduct outreach programs.

On July 28, 1998, the Committee voted to report S. 1021, as amended, favorably to the Senate, and on September 21, 1998, the bill was reported (S. Rept. 105–340).

On October 5, 1998, the Senate unanimously approved S. 1021, as further amended to:

1. Reinsert provisions requiring that Federal hiring competitions be opened to all "preference eligible" veterans, but limiting that mandate to cases where the hiring agency has opened the competition to persons other than its own current employees; and

2. Expand the universe of veterans to whom Federal contractors will conduct outreach activities to include all "preference eligible" veterans.

On October 8, 1998, S. 1021 was passed by the House, clearing the measure for the President. On October 20, 1998, S. 1021 was presented to the President. On October 31, 1998, the President signed S. 1021 into law as Public Law 105–339, the "Veterans Employment Opportunities Act of 1998."

As detailed above, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, and then passed H.R. 4110, as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add a number of other provisions. Among the provisions so added to H.R. 4110 were:

1. A provision (at section 211) derived from H.R. 4110 as originally passed by the House on August 3, 1998, specifying that the States, in their capacities as employers, will be subject to USERRA;
2. A provision (at section 212) derived from H.R. 4110 as originally passed by the House extending USERRA rights to veterans hired abroad by U.S. employers;
3. A provision (at section 213) derived from H.R. 4110 as originally passed by the House modifying procedures for processing Federal employee complaints relating to USERRA; and
4. A provision (at section 1004) modifying the formula to determine the number of VETS-funded Disabled Veterans Outreach Program Specialists to reflect the working-age veteran population in each state.

On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

VIII. HOME LOAN GUARANTY PROGRAM

A. OVERVIEW

The VA Home Loan Guaranty Program is designed to encourage and facilitate the extension of favorable credit terms by private lenders to veterans, and to the surviving spouses of those who die from service-connected causes, for the purchase, construction, or improvement of homes. The program operates by substituting the Federal Government's guaranty of a portion of the loan for down payments required under conventional mortgages. Eligible veterans are thereby able to purchase a home even if they lack down payment funds.

Most veterans pay a fee to VA for the guaranty. Service-disabled veterans and certain surviving spouses are exempt from paying the fee. 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, with a maximum guaranty of $50,750.

When a lender forecloses on a VA-guaranteed loan, VA uses a formula, known as the "no-bid" formula, to determine whether it would be to VA's advantage to pay the guaranty amount or,

alternatively, to acquire, then resell, the property. When VA resells properties it acquires through foreclosure, it typically finances purchasers through arrangements known as "vendee loans." Such loans are either retained as VA "portfolio loans," or are pooled and sold as mortgage-backed securities, known as real estate mortgage investment conduits or "REMICs." VA recovers losses after such sales from defaulting veterans, and VA—but only VA—is authorized to withhold veterans benefits to offset such debts.

Under a 5-year pilot program established in 1992 by Public Law 102–547, VA makes direct loans to Native American veterans to finance the purchase or construction of housing on native lands. VA makes direct loans for such purchases since commercial lenders cannot take title to trust lands and so will not finance such purchases, even with a VA guaranty. Like vendee loans which are not sold as REMICs, such loans are held by VA.

B. FIRST SESSION

On May 7, 1997, Senator Daniel K. Akaka introduced S. 714, a bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs.

On July 7, 1997, Chairman Specter introduced S. 986, the proposed "Veterans' Housing Loan Improvements Act of 1997," at the request of the Administration. As introduced, S. 986 would have:

1. Recodified and extended VA's home loan fee schedule;
2. Reenacted VA's home loan fee schedule in tabular format;
3. Made permanent VA's "no bid" formula authority;
4. Repealed restrictions on Federal debt collection authorities which authorize VA—but only VA—to offset from veterans' benefits to recover Federal debts;
5. Consolidated various VA home loan revolving funds (into which home loan fees are deposited and from which losses on defaults are paid) into a single revolving fund;
6. Made conforming and technical amendments to home loan guaranty program statutes (to excise references to separate revolving funds).

On July 25, 1997, the Committee held a hearing on pending legislation, including S. 714 and S. 986. The Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 714 and S. 986, as amended. As amended, S. 714 would have:

1. Extended the Native American Veteran Housing Loan Pilot Program for a term of two years; and
2. Extended, as discussed above, other authorizations scheduled to expire during 1997 relating to medical care programs.

S. 986, as amended, contained the provisions of the bill as introduced and as summarized above. In addition, it was amended to incorporate other provisions not related to home loan program matters.

On October 7, 1997, the Committee voted to report S. 714 and S. 986, as amended, favorably to the Senate. On October 30, 1997,

S. 714 was reported (S. Rept. 105–123). On November 10, 1997, S. 986 was reported (S. Rept. 105–153).

On November 5, 1997, S. 714, as amended, was passed by the Senate. On November 9, 1997, the House took up S. 714, and amended and passed the bill. As so amended, S. 714 incorporated provisions from a number of House- and Senate-passed bills. With respect to home loan program matters, S. 714, as amended, extended the Native American Veteran Housing Loan Program from September 30, 1997, to December 31, 2001. On November 10, 1997, the Senate agreed to the House amendments to S. 714, clearing the measure for the President. On November 13, 1997, S. 714, the "Veterans' Benefits Act of 1997," was presented to the President. On November 21, 1997, the President signed S. 714 into law (Public Law 105–114).

C. SECOND SESSION

On June 17, 1998, Senator Daniel K. Akaka introduced S. 2181, a bill to make permanent the eligibility of former members of the Selected Reserve for veteran housing loans.

On July 28, 1998, the Committee met in open session to consider pending legislation. Among the measures considered were S. 1822, as amended to incorporate, among other things, the provisions of S. 2181. On that date, the Committee voted to report S. 1822, as so amended, favorably to the Senate. On September 22, 1998, S. 1822 was reported (S. Rept. 105–344).

As noted above, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, and then passed H.R. 4110 as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add the following:

1. A provision (at section 601) derived from H.R. 3039 authorizing VA loan guarantees for multifamily transitional housing for homeless veterans;

2. A provision (at section 602) derived from S. 986, as passed by the Senate in the First Session, consolidating various VA home loan revolving funds into a single revolving fund;

3. A provision (at section 603) derived from S. 2181 extending for four years the eligibility of former members of the Selected Reserve for veteran housing loans; and

4. A provision (at section 604) requiring the application of procurement laws relating to competition to contracts for the management of real property owned by VA as a consequence of defaults on VA-guaranteed home loans.

On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

IX. BURIAL BENEFITS AND MEMORIAL AFFAIRS

A. OVERVIEW

VA's National Cemetery Administration provides a range of burial benefits for eligible veterans. Among the benefits offered are: burial in a national cemetery; burial allowances to help defray burial and funeral expenses; plot allowances; flags for draping over the caskets of eligible deceased veterans; and headstones or markers for the graves of veterans and their eligible dependents.

The National Cemetery Administration is comprised of 119 cemeteries and 34 soldiers lots, plots, and monument sites. Veterans and certain dependents of veterans may be interred in such cemeteries. In addition, VA operates a program of grants to States to assist in the construction of State veterans cemeteries.

Separate from the National Cemetery Administration, Arlington National Cemetery (established in 1864) and a burial facility at the U.S. Soldiers' and Airmen's Home in Washington, DC, established in 1862, are maintained by the U.S. Army.

Until 1967, all of the national cemeteries, including Arlington National Cemetery, were "open" to: (1) all who had died in service; (2) retired career service personnel; (3) non-career service veterans who had served honorably; and (4) the immediate families of interred eligible persons. Generally, VA-administered cemeteries remain "open" to all such deceased persons. After the burial of President Kennedy in Arlington in 1962, however, requests for burials there increased markedly. As a consequence, eligibility for burial at Arlington was restricted, in 1967, by regulation in order to extend the "life" of the cemetery.

Currently, service personnel who die in service, retired service personnel, and their immediate family members are eligible. Non-career veterans, however, are not generally eligible for ground burial (though they remain eligible for inurnment in Arlington's columbarium) unless (1) they are former prisoners of war, or (2) they otherwise have distinguished themselves either in service, by receiving specified military decorations (the Medal of Honor; the Distinguished Service Cross, Air Force Cross, or Navy Cross; the Distinguished Service Medal; the Silver Star; or the Purple Heart), or after service, by holding specified high offices (President, Vice President, Member of Congress, Chief Justice of the United States or Associate Justice of the Supreme Court, Cabinet officers, and other executive branch offices). Further, an informal practice of granting "waivers" (by the Secretary of the Army or the President) has evolved to allow the burial in Arlington of ineligible persons.

Veterans may forfeit their eligibility for benefits, including burial benefits, by the commission of certain crimes. Among the crimes giving rise to such forfeitures are treason, mutiny, sabotage and subversive activities, and fraud upon the VA.

The American Battle Monuments Commission (ABMC) maintains overseas monuments for servicemembers who died in foreign conflicts.

B. FIRST SESSION

1. Eligibility for Benefits

On January 21, 1997, Senator Trent Lott introduced S. 61, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States Merchant Marine during World War II.

On April 22, 1997, Senator Daniel K. Inouye (for himself and Senator Daniel K. Akaka) introduced S. 623, the proposed "Filipino Veterans Equity Act of 1997." As noted above, that bill would have modified provisions of law relating to benefits received by persons who served, during World War II, in the forces of the Commonwealth of the Philippines and in the Philippine Scouts.

On July 25, 1997, the Committee held a hearing on S. 623 and other pending legislation. At that hearing, the Committee received testimony from Senator Inouye, from United States Representatives Bob Filner and Benjamin A. Gilman, and from representatives of the VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider, among other things, S. 623, as amended. As amended, the bill would have authorized the payment of burial and funeral allowance benefits to former members of the Commonwealth Army of the Philippines who, at death, had been naturalized citizens of the United States and resident in the United States. On that date, the Committee voted to report S. 623 favorably to the Senate. No further action was taken on S. 623 during the 105th Congress.

On June 17, 1997, Senator Robert G. Torricelli introduced S. 917, the proposed "National Cemetery Sanctity Act." S. 917 would have expanded the range of criminal offenses (to include terrorism offenses and the murder of a police officer) that result in the forfeiture of certain "gratuitous" veterans benefits, including burial in a national cemetery.

On June 17, 1997, Chairman Specter introduced S. 923, a bill to deny all veterans benefits to persons convicted of Federal or State capital offense.

On November 7, 1997, Senator Gordon Smith introduced S. 1406, a bill to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve.

On June 18, 1997, S. 923 was discharged from the Committee by unanimous consent and was passed by the Senate, as amended at the request of Chairman Specter and Senator Torricelli to strike the bill's inclusion of State capital offenses among those for which conviction would result in a veteran's disqualification for benefits. The House Committee on Veterans' Affairs ordered the bill reported on September 11, 1997, as amended to deny burial benefits (but not other veterans benefits) to persons convicted of Federal capital crimes. On October 31, 1997, the House passed the bill, as further amended to bar burial benefits to persons convicted of State, as well as Federal, capital crimes. On November 10, 1997, the Senate agreed to the House amendments, clearing the measure for the President. On November 13, 1997, S. 923 was presented to the President and on November 21,

1997, the measure was signed by the President into law (Public Law 105–116).

No action was taken on S. 61 or S. 1406 during the First Session of the 105th Congress.

2. Cemetery Administration

On January 28, 1997, Senator Joseph R. Biden, Jr., introduced S. 217, a bill to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in State cemeteries.

On February 12, 1997, Senator Carol Moseley-Braun introduced S. 319, a bill to designate the national cemetery at the former site of the Joliet Arsenal, in Illinois, as the "Abraham Lincoln National Cemetery."

On May 23, 1997, Senator Strom Thurmond introduced S. 813, a bill to specify criminal penalties for theft and willful vandalism at national cemeteries.

On July 7, 1997, Chairman Specter introduced S. 987 at the request of the Administration. S. 987 would have authorized VA, by administrative action, to make cost-of-living been adjustments in the rates of VA-paid compensation and DIC, and would have, in addition, amended the formula by which VA makes grants to State cemeteries to provide that VA would grant 100 percent of the costs of land improvements and cemetery "start-up" costs (rather than granting 50 percent of land acquisition and improvement costs as then specified by statute).

On July 10, 1997, Senator Daniel K. Akaka introduced S. 1006, a bill to authorize appropriations for the expansion of the columbarium of the National Memorial Cemetery of the Pacific.

On July 25, 1997, the Committee held a hearing on pending legislation, including S. 813 and S. 987. The Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider pending legislation. When the Committee scheduled that meeting, S. 813 had placed on the agenda. That bill, however, was removed from the meeting's agenda at the request of its sponsor, Senator Thurmond. Subsequently, on October 9, 1997, the bill was discharged from the Committee by unanimous consent, and referred to the Committee on the Judiciary. On October 23, 1997, the Committee on the Judiciary voted to order S. 813, as amended to incorporate a substitute directing the United States Sentencing Commission to adopt "enhanced" sentencing guidelines for offenses involving theft or willful vandalism at national cemeteries, reported favorably without written report. On November 4, 1997, S. 813, as so amended, unanimously passed the Senate. On November 8, 1997, S. 813 passed the House by voice vote, clearing the measure for the President. On November 10, 1997, S. 813 was presented to the President, and on November 19, 1997, the President signed S. 813 into law as Public Law 105–101.

The Committee did, however, consider S. 987, as amended, at its October 7, 1997, Committee meeting. As amended, S. 987 excised the provision which would have modified the formula by which VA makes grants to State cemeteries. That provision, however, was added to

S. 986, as amended, which was also considered during the Committee's October 7, 1997, meeting. The Committee voted to report S. 986, as so amended, favorably to the Senate, and on November 10, 1997, the bill was reported (S. Rept. 105–153). As discussed above, some provisions derived from S. 986, as amended, were incorporated into amendments to S. 714 as ultimately enacted into law as Public Law 105–114. The provision relating to the State cemetery grant formula, however, was not among those provisions. No further action was taken on the provision during the First Session.

No action was taken on S. 319 during the First Session of the 105th Congress. No action was taken on S. 217 or S. 1006 during the 105th Congress.

C. SECOND SESSION

1. Eligibility for Benefits

On March 11, 1998, Chairman Specter introduced S. 1743 at the request of the Administration. S. 1743 would have authorized the memorialization of deceased spouses and surviving spouses of veterans and deceased members of the Armed Forces whose remains are not available for burial.

On October 2, 1998, Senator Charles Robb introduced S. 2547, a bill to authorize the memorialization at the columbarium at Arlington National Cemetery of veterans who had donated their remains to science.

On July 28, 1998, the Committee met in open session to consider pending legislation. Among the measures considered were S. 730, as amended to incorporate, among other things, the provisions of S. 1743. On that date, the Committee voted to report S. 730, as amended, favorably to the Senate. On September 21, 1998, S. 730 was reported (S. Rept. 105–339).

As noted above, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, and then passed H.R. 4110 as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add a number of other provisions. Among the provisions so added to H.R. 4110 were one (at section 401) derived from S. 1743 (relating to the memorialization of deceased spouses and surviving spouses whose remains are not available for burial), and one (at section 402) derived from S. 61 (relating to merchant mariners' eligibility for burial benefits). On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

As noted above, S. 1406 was introduced by Senator Gordon Smith on November 7, 1997. That bill would have provided for the furnishing of burial flags to deceased members and former members of the Selected Reserve. The Committee did not act on S. 1406 during the 105th Congress. However, a provision derived from S. 1406 was enacted as section 517 of the "Strom Thurmond National Defense Authorization

Act for Fiscal Year 1999" (Public Law 105–261), approved by the House of Representatives on September 24, 1998, and by the Senate on October 1, 1998, and signed by the President on October 17, 1998. Also included in the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999" were a provision (at section 567) requiring the Secretaries of Defense and Veterans Affairs to convene a conference on improving the availability of military funeral honors, including honor guard details, at the national cemeteries, and a provision (at section 1073) requiring that burial flags furnished by VA be wholly produced in the United States.

No action was taken on S. 2547 during the 105th Congress. Further, no action was taken on H.R. 3211, the proposed "Arlington National Cemetery Burial Eligibility Act," a bill which was passed by the House on March 24, 1998, and referred to the Committee on March 25, 1998. That bill would have codified, and amended, standards for eligibility for burial in Arlington National Cemetery and would have barred the granting of waivers permitting the burial of ineligible persons there.

2. Cemetery Administration

On March 11, 1998, Chairman Specter introduced S. 1744 at the request of the Administration. S. 1744 would have redesignated the National Cemetery System as the National Cemetery Administration, and would have redesignated the Director of the National Cemetery System as the Assistant Secretary for Memorial Affairs.

On September 1, 1998, Senator Max Cleland introduced S. 2429, a bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Atlanta, Georgia, metropolitan area.

As detailed above, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, and then passed H.R. 4110, by voice vote, as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add the following provisions:

1. A provision (at section 403) derived from S. 1744 redesignating the National Cemetery System as the National Cemetery Administration, and redesignating the Director of the National Cemetery System as the Under Secretary for Memorial Affairs (rather than the Assistant Secretary for Memorial Affairs, as requested by the Administration);

2. A provision (at section 404) derived from S. 987 modifying VA's formula for making grants to State cemeteries; and 3.A provision (at section 1001) relating to the subject matter of S. 319 and prospectively reserving to the legislative branch the authority to name VA facilities after persons.

On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

No action was taken on S. 2429 during the 105th Congress.

X. INSURANCE

A. OVERVIEW

VA administers its own life insurance programs, and supervises the administration of two additional programs, for the benefit of servicemembers and veterans and their beneficiaries. Over 4.9 million policies are in force, having a total value of over $560 billion, making VA the Nation's fourth largest life insurer.

B. FIRST SESSION

No legislation relating to VA insurance programs was referred to the Committee during the First Session of the 105th Congress.

C. SECOND SESSION

On May 21, 1998, Chairman Specter introduced S. 2108, the proposed "Servicemembers' and Veterans' Group Life Insurance Accelerated Death Benefits Act," at the request of the Administration. The bill would have authorized VA to promulgate regulations allowing persons with a life expectancy of 12 months or less to elect to receive, prior to death, up to 50 percent of the insurance benefits due at death.

On July 28, 1998, the Committee met in open session to consider pending legislation. Among the measures considered were S. 730, as amended to incorporate, among other things, the provisions of S. 2108. On that date, the Committee voted to report S. 730, as amended, favorably to the Senate. On September 21, 1998, S. 730 was reported (S. Rept. 105–339).

As noted above, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, and then passed H.R. 4110, by voice vote, as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add a number of other provisions. Among the provisions so added to H.R. 4110 were the following:

1. A provision (at section 302) derived from S. 2108 authorizing the election of accelerated death benefits on Servicemembers' and Veterans' Group Life Insurance policies;
2. A provision (at section 303) requiring VA to report to the Congress on the adequacy of VA insurance and survivor benefits programs in meeting the needs of the survivors of deceased veterans who had service-connected disabilities; and
3. A provision (at section 304) making technical amendments to statutes governing the National Service Life Insurance program.

On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

XI. CLAIMS ADJUDICATION AND JUDICIAL REVIEW

A. OVERVIEW

Public Law 100–687 established the United States Court of Veterans Appeals (CVA) and provided for judicial review by CVA of denials of claims for veterans' benefits. The Court has exclusive jurisdiction to review final decisions of the Board of Veterans' Appeals (BVA) in cases where a "notice of disagreement" was filed on or after November 18, 1988, the date of enactment of Public Law 100–687. In cases of individual claims for benefits, the Court's review is based on the record of proceedings before the BVA, and only individuals adversely affected by the BVA decision—and not VA—may appeal to the Court. CVA decisions are subject to review by the United States Court of Appeals for the Federal Circuit, and decisions of the United States Court of Appeals for the Federal Circuit are subject to review in the United States Supreme Court.

B. FIRST SESSION

On March 18, 1997, Senator Patty Murray introduced S. 464, a bill to allow revision of veterans benefits decisions based on clear and unmistakable error.

On July 7, 1997, Chairman Specter introduced S. 988 at the request of the Chief Judge, U.S. Court of Veterans Appeals. The bill contained provisions to:

1. Rename CVA the United States Court of Appeals for Veterans Claims.
2. Provide for "staggered" retirements of CVA's five original Associate Judges by allowing the early retirement of one Associate Judge in 1999; in 2000; in 2001; in 2002; and in 2003;
3. Modify CVA judges' retirement/survivor benefits by:

(a) Modifying active judges' contributions toward retirement annuities;

(b) Prohibiting interest payments on retirement pay deductions made by judges for periods of time during which judges were separated from judicial or congressional service and were not receiving retired pay based on such service;

(c) Allowing survivor annuities to be paid to survivors of a judge who dies after 18 months of creditable civilian service, and allowing a survivor annuity without a creditable service requirement if a judge is assassinated;

(d) Repealing the requirement that a surviving spouse be at least 50 years of age before he or she could receive a survivor's annuity;

(e) Specifying cost-of-living adjustments for survivor annuities;

(f) Allowing a judge to elect to participate in a survivor annuity within six months after marriage if such judge has retired;

(g) Calculating years of service by crediting six months or more service as one year and crediting less than six months service as zero years;

(h) Prohibiting cost-of-living adjustment to a retired judge's pay if the adjustment would cause retired pay to exceed the pay of an active judge;

(i) Providing for forfeiture of retirement pay in cases where a judge, within one year after retirement, represents a client against the government in a veteran's claim;

(j) Exempting the CVA retirement fund from budget sequestration; and

(k) Authorizing CVA to prescribe rules to carry out the provisions of 38 U.S.C. Chapter 72 relating to retirement and administrative functions.

On July 25, 1997, the Committee held a hearing on pending legislation, including S. 464. The Committee received testimony from VA and various veterans service organizations.

On October 7, 1997, the Committee met in open session to consider pending legislation, including S. 464. The Committee voted to report S. 464 favorably to the Senate, and on November 13, 1997, the bill was reported (S. Rept. 105–157).

A companion bill to S. 464, H.R. 1090, was passed by the House on April 16, 1997, and on April 17, 1997, H.R. 1090 was referred to the Committee. On November 10, 1997, H.R. 1090 was discharged from the Committee by unanimous consent and unanimously passed the Senate. On November 13, 1997, H.R. 1090 was presented to the President, and on November 21, 1997, the President signed H.R. 1090 into law as Public Law 105–111.

No action was taken by the Committee on S. 988 during the First Session of the 105th Congress.

C. SECOND SESSION

On March 11, 1998, Chairman Specter introduced S. 1745 at the request of the Administration. S. 1745 would have provided flexibility in the order in which the Board of Veterans' Appeals hears and considers appeals by permitting BVA to consider and decide appeals out of turn if delay on a previously filed claim is necessary to provide a hearing on that claim, and by allowing hearings to be advanced for good cause shown.

On July 28, 1998, the Committee met in open session to consider pending legislation. Among the measures considered were S. 730, as amended to incorporate, among other things, the provisions of S. 1745. On that date, the Committee voted to report S. 730, as amended, favorably to the Senate. On September 21, 1998, S. 730 was reported (S. Rept. 105–339).

As noted above, on August 3, 1998, the House passed H.R. 4110, and on September 30, 1998, the Senate amended H.R. 4110 to substitute the text of S. 2273, and then passed H.R. 4110 as so amended. On October 10, 1998, the House agreed to the Senate amendment to H.R. 4110 and further amended the bill to add a number of other provisions. Among the provisions so added to H.R. 4110 were the following:

1. A provision (at section 1003) derived from S. 1745 relating to flexibility in the order in which the Board of Veterans' Appeals hears and considers appeals;

2. Provisions (at Title V) derived from S. 988 to:

(a)Provide for the continuation of the term of an active CVA judge who is appointed to a second term, pending confirmation, for up to one year;

(b) Exempt the CVA retirement fund from sequestration orders;

(c) Modify survivor annuity benefits; and

(d) Require the Chief Judge of the Court to report to the Committee on the feasibility of merging CVA retirement programs with other Federal judicial retirement programs and on the feasibility of allowing CVA judges to participate in the survivor annuity programs available to other Federal court judges; and

3. Rename CVA the United States Court of Appeals for Veterans Claims.

On October 21, 1998, the Senate agreed to the House amendments, clearing the measure for the President. On November 2, 1998, H.R. 4110 was presented to the President. On November 11, 1998, the President signed H.R. 4110 into law as Public Law 105–368, the "Veterans Programs Enhancement Act of 1998."

XII. MISCELLANEOUS

FIRST SESSION

On June 4, 1997, H. J. Res 75 was referred to the Committee. This measure, which would have conferred the status of honorary veteran on Leslie Townes (Bob) Hope, had been approved by the House on June 3, 1997.

On June 12, 1997, the Committee ordered that the resolution be reported to the Senate with favorable recommendation, without written report. On September 4, 1997, the resolution was so reported to the Senate, and on September 9, 1997, H. J. Res. 75 was approved by the Senate, clearing the measure for the President. On October 22, 1997, H. J. Res. 75 was presented to the President and on October 30, 1997, the President signed H. J. Res. 75 into law as Public Law 105–67.

A related measure, S. Con. Res. 56, was introduced by Chairman Specter on October 22, 1997. That resolution would have authorized the use of the Capitol rotunda for a ceremony to confer upon Leslie Townes (Bob) Hope the status of honorary veteran of the Armed Forces of the United States. S. Con. Res. 56 was considered and passed by the Senate on October 22, 1997, and agreed to by the House on October 23, 1997. The ceremony conferring the status of honorary veteran of the Armed Forces of the United States was held in the rotunda of the Capitol on October 29, 1997.

SECOND SESSION

On March 11, 1998, Chairman Specter introduced S. 1746 at the request of the Administration. The bill would have removed a statutory provision requiring a specified number of full-time equivalent

positions in the Department of Veterans Affairs Office of the Inspector General.

On April 1, 1998, Senator Craig Thomas introduced S. 1903, a bill to prohibit the return of veterans memorial objects to foreign nations without specific authorization of law.

No action was taken by the Committee on S. 1746 or S. 1903 during the 105th Congress.

○