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VETERANS BENEFITS ENHANCEMENT ACT OF 2007

AUGUST 29, 2007.—Ordered to be printed

Filed, under authority of the order of the Senate of August 3, 2007

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

R E P O R T

together with

SUPPLEMENTAL VIEWS

[To accompany S. 1315]

The Committee on Veterans' Affairs (hereinafter, "the Committee"), to which was referred the bill (S. 1315), to amend title 38, United States Code, to enhance life insurance benefits for disabled veterans, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

INTRODUCTION

On May 7, 2007, Committee Chairman Daniel K. Akaka introduced S. 1315, the proposed "Disabled Veterans Insurance Improvement Act of 2007." S. 1315 would amend title 38, United States Code, to enhance life insurance benefits for disabled veterans, and for other purposes. The bill was referred to the Committee.

Earlier on January 4, 2007, Senator Inouye introduced S. 57, the proposed "Filipino Veterans Equity Act of 2007." Later, Chairman Akaka and Senators Boxer, Brown, Cardin, Cantwell, Clinton, Feinstein, Lautenberg, Menendez, Mikulski, Murray, Obama, Reid, Schumer, and Stevens were added as cosponsors. S. 57 would deem certain service performed before July 1, 1946, in the organized

military forces of the Philippines and Philippine Scouts as active military service for purposes of eligibility for veterans benefits through the Department of Veterans Affairs. This bill would also repeal certain provisions discounting such service as qualifying service.

On January 9, 2007, Ranking Republican Member Craig introduced S. 225, with Chairman Akaka. Later, Senator Brown was added as a cosponsor. S. 225 would expand the number of individuals qualifying for retroactive benefits from traumatic injury protection coverage under Servicemembers' Group Life Insurance.

On February 15, 2007, Chairman Akaka introduced S. 643, the proposed "Disabled Veterans Insurance Act of 2007." S. 643 would increase from \$20,000 to \$40,000 the maximum amount of supplemental service disabled veterans' insurance for totally disabled veterans.

On March 13, 2007, Senator Murray introduced S. 847. Later, Senators Brown and Sanders were added as cosponsors. S. 847 would extend the period of time during which a veteran's multiple sclerosis is to be considered to have been incurred in, or aggravated by, military service during a period of war.

On March 13, 2007, Senator Murray introduced S. 848, the proposed "Prisoner of War Benefits Act of 2007." Later, Senators Brown and Sanders were added as cosponsors. S. 848 would add diabetes and osteoporosis to the list of diseases presumed to be service-connected for former prisoners of war.

On April 11, 2007, the Committee held a hearing on S. 57. Testimony was offered by: The Honorable H.E. Willy C. Gaa, Philippine Ambassador to the United States; Mr. Ronald R. Aument, Deputy Under Secretary for Benefits, U.S. Department of Veterans Affairs; Ms. Luisa Maria Antonio, Executive Director, Veterans Equity Center; Mr. Sidath Viranga Panangala, Analyst in Social Legislation, Congressional Research Service; Ms. Jenah Yangwas, granddaughter of a Filipino World War II veteran and member of Student Action for Veterans Equity; Mr. Manuel Braga, Commander, Filipino WW II Veterans Federation of San Diego County; Mr. Artemio Caleda, President, WW II Filipino American Veterans and Ladies Auxiliary of Hawaii; Mr. Patrick Ganio, Sr., President, American Coalition for Filipino Veterans, Inc., whose testimony was presented by Mr. Avelino Asuncion; and Mr. Benito Valdez, Filipino Community of Seattle. Mr. Edwin Ramsey, who fought alongside Filipino veterans during World War II, testified via videotape.

On April 12, 2007, Senator Cornyn introduced S. 1096, the proposed "Veterans' Housing Benefits Enhancement Act of 2007," with Chairman Akaka, Ranking Republican Member Craig, and Senator Hutchison as cosponsors. Later, Senators Bunning and Martinez were added as cosponsors. S. 1096 would provide certain housing benefits to disabled members of the Armed Forces and expand certain benefits for disabled veterans with severe burns.

On April 25, 2007, Chairman Akaka introduced S. 1215. Later, Senator Sanders was added as a cosponsor. S. 1215 would raise the cap on funds for State approving agencies, extend authority for a pilot program for on-the-job claims adjudicator training, update various reporting requirements, and provide for other purposes.

On May 2, 2007, Ranking Republican Member Craig introduced S. 1265. S. 1265 would expand eligibility for veterans' mortgage life insurance to include members of the Armed Forces receiving specially adapted housing assistance from the Department of Veterans Affairs.

On May 3, 2007, Ranking Republican Member Craig introduced S. 128, the proposed "Veterans' Justice Assurance Act of 2007." S. 1289 would modify the salary and terms of judges of the United States Court of Appeals for Veterans Claims and modify authorities for the recall of retired judges of such court.

On May 3, 2007, Ranking Republican Member Craig introduced S. 1290. S. 1290 would provide additional discretion to the Secretary of Veterans Affairs in contracting with State approving agencies.

On May 3, 2007, Ranking Republican Member Craig introduced S. 1293, the proposed "Veterans' Education and Vocational Benefits Improvement Act of 2007." S. 1293 would improve educational assistance for members and former members of the Armed Forces.

On May 7, 2007, Senator Feingold introduced S. 1313, the proposed "Servicemembers' Cellular Phone Contract Fairness Act of 2007." Later, Senator Isakson was added as a cosponsor. S. 1313 would provide relief for servicemembers with respect to contracts for cellular phone service.

On May 7, 2007, Senator Feingold introduced S. 1314, the proposed "Veterans Outreach Improvement Act of 2007," with Senator Burr as a cosponsor. S. 1314 would enhance the outreach activities of the Department of Veterans Affairs.

On May 8, 2007, Senator Sanders introduced S. 1326, the proposed "Comprehensive Veterans Benefits Improvements Act of 2007." S. 1326 would improve and enhance compensation and pension, health care, housing, burial, and other benefits for veterans.

On May 9, 2007, the Committee held a hearing on benefits legislation at which testimony on S. 1315, among other bills, was offered by: the Honorable Daniel L. Cooper, Under Secretary for Benefits, Department of Veterans Affairs; Ms. Meredith Beck, National Policy Director, Wounded Warrior Project; Mr. Carl Blake, National Legislative Director, Paralyzed Veterans of America; Mr. Eric A. Hilleman, Deputy Director, National Legislative Service, Veterans of Foreign Wars of the United States; Mr. Kimo S. Hollingsworth, National Legislative Director, AMVETS; Mr. Brian E. Lawrence, Assistant National Legislative Director, Disabled American Veterans; Col. Robert F. Norton (Ret.), Deputy Director, Government Relations, Military Officers Association of America; and Mr. Alec S. Petkoff, Assistant Director, Veterans Affairs and Rehabilitation Commission, The American Legion.

On May 17, 2007, Chairman Akaka introduced S. 1421. S. 1421 would maintain, manage and keep available assets of the Air Force Health Study, Ranch Hand.

COMMITTEE MEETING

After carefully reviewing the testimony from the foregoing hearings, the Committee met in open session on June 27, 2007, to consider, among other legislation, an amended version of S. 1315, consisting of provisions from S. 1315 as introduced and from the other

legislation noted above. The Committee voted unanimously to report favorably S. 1315 to the Senate.

SUMMARY OF S. 1315 AS REPORTED

S. 1315, as reported (hereinafter, “the Committee bill”), consists of eight titles, summarized below.

TITLE I—INSURANCE MATTERS

Section 101 would provide level-premium term life insurance for veterans with service-connected disabilities.

Section 102 would provide for the administrative costs of service disabled veterans’ insurance.

Section 103 would modify Servicemembers’ Group Life Insurance coverage.

Section 104 would provide additional supplemental insurance for totally disabled veterans.

Section 105 would expand the number individuals qualifying for retroactive benefits from traumatic injury protection coverage under Servicemembers’ Group Life Insurance.

Section 106 would direct the Secretary to consider the loss of a dominant hand in prescription of schedule of severity of traumatic injury protection under Servicemembers’ Group Life Insurance.

Section 107 would allow servicemembers to designate a fiduciary for traumatic injury protection coverage under Traumatic Servicemembers’ Group Life Insurance in case of lost mental capacity or extended loss of consciousness.

Section 108 would enhance Veterans’ Mortgage Life Insurance.

TITLE II—HOUSING MATTERS

Section 201 would provide eligibility for VA-provided home improvement and structural alteration payments to totally disabled members of the Armed Forces before discharge or release from the Armed Forces.

Section 202 would provide eligibility for certain specially adapted housing benefits to members of the Armed Forces with service-connected disabilities and individuals residing outside the United States.

Section 203 would provide eligibility for specially adapted housing assistance to individuals with severe burn injuries.

Section 204 would extend until December 31, 2011, authority to assist severely disabled servicemembers temporarily residing in housing owned by a family member with housing adaptation grants.

Section 205 would provide supplemental specially adapted housing benefits for disabled veterans.

Section 206 would require a report on the adequacy of existing specially adapted housing grant and assistance authorities for disabled individuals.

Section 207 would require a report on the need for specially adapted housing assistance for individuals who reside on a permanent basis in housing owned by a family member.

TITLE III—LABOR AND EDUCATION MATTERS

Section 301 would require the Department of Veterans Affairs to coordinate with the Departments of Labor and Education to reduce overlap and duplication with respect to approvals of programs of education and to report to Congress on establishing outcome-oriented performance measures for State approving agencies.

Section 302 would restore the funding cap for State approving agencies to \$19 million.

Section 303 would permit waiver of a residency requirement for State Directors of Veterans' Employment and Training.

Section 304 would update a special unemployment study to include veterans of the Post-9/11 Global Operations period and require an annual report.

Section 305 would temporarily extend an increase in benefits for individuals pursuing apprenticeship or on-job training programs.

TITLE IV—FILIPINO WORLD WAR II VETERANS MATTERS

Section 401 would deem certain service before July 1, 1946, in the organized military forces of the Philippines and the Philippine Scouts as active military service for purposes of eligibility for veterans benefits.

Section 402 would provide that the children of deceased or totally-disabled service-connected Filipino veterans who qualify for educational benefits would be paid at the same rate and under the same conditions as the children of other veterans.

TITLE V—COURT MATTERS

Section 501 would modify the rules governing service and payment of retired judges performing recall service for the United States Court of Appeals for Veterans Claims.

Section 502 would grant the United States Court of Appeals for Veterans Claims additional discretion in the imposition of practice and registration fees.

Section 503 would require the United States Court of Appeals for Veterans Claims to submit annual reports to Congress on its workload.

Section 504 would require the General Services Administration to study and report on the feasibility of expanding the facilities of the United States Court of Appeals for Veterans Claims.

TITLE VI—COMPENSATION AND PENSION MATTERS

Section 601 would add osteoporosis to the disabilities presumed to be service-connected in former prisoners of war with post-traumatic stress disorder.

Section 602 would provide an annual cost-of-living increase for additional dependency and indemnity compensation paid to certain surviving spouses with dependent children under the age of 18.

Section 603 would restore parity between elderly and disabled low-income pensioners with respect to receipt of special monthly compensation.

TITLE VII—BURIAL AND MEMORIAL MATTERS

Section 701 would authorize supplemental benefits for veterans for funeral and burial expenses.

Section 702 would authorize supplemental plot allowances.

TITLE VIII—OTHER MATTERS

Section 801 would provide automobile and adaptive equipment assistance to disabled veterans and servicemembers with severe burn injuries.

Section 802 would provide supplemental assistance for providing automobiles and other conveyances to certain disabled veterans.

Section 803 would designate the National Guard and Reserve as integral targets of the Secretary of Veterans Affairs' outreach program and would establish a definition of the term "outreach".

Section 804 would terminate or suspend, upon request, the cellular telephone contracts of servicemembers undergoing deployment outside the United States.

Section 805 would authorize funding for the Medical Follow-Up Agency for the maintenance and management of the Air Force Health Study specimens.

Section 806 would require a National Academies study on the risk of developing multiple sclerosis as a result of certain service in the Persian Gulf War and Post-9/11 Global Operations theaters.

Section 807 would require a Comptroller General report on the adequacy of dependency and indemnity compensation to maintain survivors of veterans who die from service-connected disabilities.

BACKGROUND AND DISCUSSION

TITLE I—INSURANCE MATTERS

Sec. 101. Level-premium term life insurance for veterans with service-connected disabilities.

Section 101 of the Committee bill, which is derived from S. 1315 as introduced, would establish a new program of insurance for service-connected disabled veterans that would provide up to a maximum of \$50,000 in level premium term life insurance coverage.

The Department of Veterans Affairs (hereinafter, "VA") offers a variety of life insurance options for servicemembers, veterans, and their families. Most notable among these is the Servicemembers' Group Life Insurance (hereinafter, "SGLI") program, which offers low-cost group life insurance for servicemembers on active duty, ready reservists, members of the National Guard, members of the Commissioned Corps of the National Oceanic and Atmospheric Administration and the Public Health Service, cadets and midshipmen of the four service academies, and members of the Reserve Officer Training Corps. SGLI coverage is available in \$50,000 increments up to the maximum of \$400,000. SGLI premiums are currently \$.07 per \$1,000 of insurance, regardless of the insured individual's age.

Veterans' Group Life Insurance (hereinafter, "VGLI") is a post-separation insurance that allows members to convert their SGLI coverage to renewable term insurance. Members with full-time SGLI coverage are eligible for VGLI upon release from service. VGLI is issued in multiples of \$10,000 up to a maximum of \$400,000. A member's coverage amount cannot exceed the amount of SGLI they had in force at the time of separation from service.

VGLI premiums are based upon the separating member's age. The advantage of exercising a conversion option is that a servicemember, irrespective of health status, is not disqualified on the basis of pre-existing condition.

Veterans who have a service-connected disability may be eligible for life insurance coverage under the Service-Disabled Veterans Insurance (hereinafter, "S-DVI") program. Policies are issued for a maximum face amount of \$10,000. Under certain conditions, the basic S-DVI policy provides for a waiver of premiums for policyholders with total disabilities. Policyholders who carry the basic S-DVI coverage and who become eligible for a waiver of premiums due to total disability can apply for and be granted additional Supplemental S-DVI of up to \$20,000. Waiver of premiums due to total disability is not provided on Supplemental S-DVI coverage. At present, the S-DVI program bases premium rates on a 1941 mortality table—thus not offering favorable rates to disabled veterans. However, VA does provide subsidy payments to keep premiums lower than they otherwise would be.

Under the new program of insurance proposed by section 101 of the Committee bill, service-disabled veterans would be able to purchase up to \$50,000 worth of level-premium term life insurance coverage, in \$10,000 increments. The premium rates for the new insurance program would be based on the 2001 Commissioners Standard Ordinary Basic Table of Mortality rather than the 1941 mortality table, thus offering veterans a more favorable insurance premium rate. This new program would be available to service-connected disabled veterans who are less than 65 years of age at the time of application. When an insured veteran reaches age 70, two things would occur under this new program of insurance. First, the amount of insurance would be reduced to 20 percent of the amount of insurance in force prior to the veteran's 70th birthday. Second, the veteran would cease making premium payments. This means that during those years when the family's financial obligations would be commensurately higher because of children, mortgages, and the potential impact of any loss of income, the veteran would be able to purchase up to \$50,000 of term life insurance. At age 70, when resources are likely to be more restricted and the need for substantial insurance to take care of a family's needs after the veteran's death have lessened, the veteran would no longer have an obligation to continue to pay any insurance premiums and would have reduced coverage. Finally, the proposed program would waive all premiums for veterans with service-connected disabilities rated as total.

Under the proposed new program, an eligible veteran would have to submit an application for this insurance within two years from the date on which VA establishes that a service-connected disability exists, but not later than ten years after a veteran's release from active duty. It would also provide that during the first year of the program, any eligible veteran who is presently insured under the S-DVI program could convert that insurance coverage to a policy under this new program.

Sec. 102. Administrative costs of service disabled veterans' insurance.

Section 102 of the Committee bill, which is derived from S. 1315 as introduced, would allow administrative costs for the S-DVI program to be paid for by premiums, as is done with all other National Service Life Insurance sub-funds. This would allow administrative costs to be provided from Veterans Insurance and Indemnities and not General Operating Expenses in Function 700 of the Budget of the United States Government.

Sec. 103. Modification of servicemembers' group life insurance.

Section 103(a) of the Committee bill, which is derived from S. 1315 as introduced, would amend section 1967(a)(1) of title 38, United States Code, with regard to Family Servicemembers' Group Life Insurance (hereinafter, "FSGLI") to extend coverage to members of the Individual Ready Reserve (hereinafter, "IRR"). FSGLI is a life insurance program extended to the spouses and dependent children of servicemembers insured under the SGLI program. FSGLI provides up to a maximum of \$100,000 of insurance coverage for spouses, not to exceed the amount of SGLI the insured member has in force, and \$10,000 for dependent children. Spousal coverage is issued in increments of \$10,000.

Public Law 107-14 provided FSGLI to all servicemembers on active duty and to members of the IRR who are eligible for full-time SGLI coverage. However, the legislation did not extend this coverage to a small group of reservists who are also eligible for full-time SGLI coverage, that is reservists who volunteer for assignment to a mobilization category in the IRR, as defined in section 1965(5)(C) of title 38, United States Code.

Section 103(b) of the Committee bill would amend section 1968(a)(5)(B)(ii) of title 38, United States Code, which provides that SGLI policies, with respect to an insurable dependent of a servicemember, will cease on the earliest of: (1) 120 days after the servicemember's death; (2) 120 days after the date of termination of insurance on the servicemember's life; or (3) 120 days after termination of the dependent's status as an insurable dependent.

The second criterion in the current law effectively gives many insurable dependents 240 days of coverage after the servicemember separates from service because a servicemember's SGLI coverage extends for 120 days after separation. Section 103(b) of the Committee bill would change the second criterion to refer to the date of the servicemember's separation or release from service, rather than the date of termination of insurance on the servicemember's life.

Sec. 104. Supplemental insurance for totally disabled veterans.

Section 104 of the Committee bill, which is derived from S. 643, would increase the amount of supplemental life insurance available to totally disabled veterans under the Service-Disabled Veterans' Insurance (hereinafter, "S-DVI") program from \$20,000 to \$30,000. Many totally disabled veterans find it difficult to obtain commercial life insurance. These are the veterans this program aids by providing them with a reasonable amount of life insurance coverage.

S-DVI was established during the Korean War to provide life insurance for veterans with service-connected disabilities. The

\$10,000 base benefit has never been increased. In comparison, the SGLI and VGLI benefits, which were \$10,000 and \$20,000 respectively at their inception, have been increased over time to \$400,000.

In 1992, in Public Law 102-568, Congress increased the amount of life insurance available to S-DVI policyholders by offering \$20,000 worth of supplemental coverage to those who are considered totally disabled. Forty percent of the veterans enrolled in the S-DVI program are considered totally disabled and are eligible for a premium waiver for their basic coverage. According to VA, in fiscal year 2006, 32 percent of veterans granted new policy waivers also opted to pay for this supplemental coverage. However, even with \$30,000 in coverage, the amount of life insurance available to disabled veterans falls well short of the death benefits available to servicemembers and veterans enrolled in the SGLI and VGLI programs.

The Congressionally-mandated study completed in 2001, entitled "Program Evaluation of Benefits for Survivors of Veterans with Service-Connected Disabilities," found the lowest area of veteran satisfaction to be the maximum amount of S-DVI insurance coverage that veterans were authorized to purchase. Section 104 of the Committee bill would begin to address this area of need by increasing the amount of life insurance available to totally disabled veterans by allowing them to purchase an additional \$10,000 in supplemental insurance coverage.

Sec. 105. Expansion of individuals qualifying for retroactive benefits from traumatic injury protection coverage under Servicemembers' Group Life Insurance.

Section 105 of the Committee bill, which is derived from S. 225, would expand the number of individuals qualifying for traumatic injury protection coverage under the Servicemembers' Group Life Insurance program (hereinafter, "TSGLI").

Section 1032 of Public Law 109-13, the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005" (hereinafter, "Supplemental Appropriations Act") established traumatic injury protection coverage under the Servicemembers' Group Life Insurance program. TSGLI provides coverage against qualifying losses incurred as a result of a traumatic injury event. In the event of a loss, VA will pay between \$25,000 and \$100,000 depending on the severity of the qualifying loss. A key factor in analyzing the severity of a particular traumatic injury is the impact it has on the length of hospitalization and rehabilitation. Currently, servicemembers and reserve component members with any amount of SGLI coverage are automatically covered under TSGLI. A premium (currently \$1 monthly) is collected from covered members to meet peacetime program expenses; the Department of Defense (hereinafter, "DOD") is required to fund TSGLI program costs associated with the extra hazards of military service.

TSGLI went into effect on December 1, 2005. Thus, all insured servicemembers under SGLI from that point forward are also insured under TSGLI and their injuries are covered regardless of where they occur. In order to provide assistance to those servicemembers suffering traumatic injuries on or between October

7, 2001, and November 30, 2005, retroactive TSGLI payments were authorized under section 1032(c) of the Supplemental Appropriations Act to individuals whose qualifying losses were sustained as “a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom.” Under section 501(b) of Public Law 109–233, the Veterans’ Housing Opportunity and Benefits Improvement Act of 2006, this definition was amended to allow retroactive payments to individuals whose qualifying losses were sustained as “a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom and Operation Iraqi Freedom.”

Testimony given by Meredith Beck, National Policy Director at the Wounded Warrior Project, at the Committee’s May 9, 2007, hearing revealed that limiting retroactive TSGLI payments to those who served in the Operation Iraqi Freedom (hereinafter, “OIF”) or Operation Enduring Freedom (hereinafter, “OEF”) theaters of operations was both inconsistent with other retroactive payments approved by Congress and, more important, an obstacle to providing needed assistance to servicemembers traumatically wounded in the line of duty:

Without corrective action, brave men and women who were traumatically injured after October 7, 2001, but before December 1, 2005, will continue to be denied the same retroactive payment given to their wounded comrades even though the Servicemembers’ Group Life Insurance for which TSGLI is a rider was made retroactive—brave men and women like Navy Seal Toshiro Carrington who was injured in a training accident at Camp Pendleton on December 15, 2004. He was holding a charge in his left hand when another servicemember accidentally detonated it. SO1 Carrington was left with a traumatically severed left hand, a severed right tip of his thumb and his remaining fingers all fractured. Unfortunately, Toshiro’s severe injuries did not qualify him for a payment under TSGLI. . . .

Section 105 of the Committee bill would remove the requirement that limits retroactive TSGLI payments to those who served in the OIF or OEF theaters of operations. Thus, section 105 of the Committee bill would authorize retroactive TSGLI payments for qualifying traumatic injuries incurred on or after October 7, 2001, but before December 1, 2005, irrespective of where the injuries occurred.

Sec. 106. Consideration of loss of dominant hand in prescription of schedule of severity of traumatic injury under Servicemembers’ Group Life Insurance.

Section 106 of the Committee bill would allow VA to consider the loss of a dominant hand when determining severity of loss under the TSGLI program. TSGLI provides coverage against qualifying losses incurred as a result of a traumatic injury event. In the event of a qualifying loss, VA will pay between \$25,000 and \$100,000 depending on the severity of the qualifying loss. In prescribing payments, VA does not account for the effect, if any, that the loss of a dominant hand has on lengthening hospitalization or rehabilita-

tion periods. TSGLI provides payment for injuries dating back to October 7, 2001. Since that time, there have been 97 single hand amputations. This includes amputations that are a part of the entire arm as well as just the hand. There have also been 12 thumb and index finger of the same hand amputations. These receive the equivalent payment under the TSGLI program as amputations of the entire arm or hand. The Committee seeks to compensate members appropriately for the greater loss, if any, of a dominant hand by giving VA the authority to distinguish in specifying payments for qualifying losses of a dominant hand and a qualifying loss of a non-dominant hand.

Sec. 107. Designation of fiduciary for members with lost mental capacity or extended loss of consciousness for Traumatic Servicemembers' Group Life Insurance.

Section 107 of the Committee bill would require the development of a form for the designation of a recipient for the purpose of managing TSGLI funds in case of lost mental capacity or extended loss of consciousness. This form would be required to be completed by servicemembers who would be required either to elect an individual as a fiduciary or to have a court of jurisdiction determine the recipient.

Section 1032 of Public Law 109–13, the Supplemental Appropriations Act, amended title 38, United States Code, to add a new section 1980A that provides traumatic injury protection coverage under the Servicemembers' Group Life Insurance program. TSGLI provides coverage against qualifying losses incurred as a result of a traumatic injury event.

TSGLI is meant to aid servicemembers and their loved ones while the servicemember is recovering from a traumatic injury. According to an April 21, 2005, floor statement by Committee Ranking Republican Member Senator Craig, sponsor of the provision in Public Law 109–13, TSGLI's purpose is to help servicemembers and their families cope with the financial burden of extended rehabilitation:

It is during this rehabilitation period at military hospitals that the need for additional financial resources is most acute. For many Guard and Reserve members at Walter Reed, they already have foregone higher paying civilian jobs prior to their deployment. Lengthy recovery periods simply add to the financial strain they bear. In addition, family members of injured soldiers bear the burdens necessary to travel from great distances to provide the love and emotional support that is absolutely essential for any successful rehabilitation. Spouses quit jobs to spend time with their husbands at the hospital. Parents spare no expense to be with their injured children.

When a servicemember is mentally incapacitated or experiencing an extended loss of consciousness, and previously no provision had been made to designate a Power of Attorney (hereinafter, "POA"), TSGLI's intent cannot be met because the servicemember is unable to file a TSGLI claim.

The branches of service encourage, but do not require, servicemembers to prepare a will and POA when they first enlist.

Prior to deployment, servicemembers are even more strongly encouraged to take such steps. The Judge Advocate General (hereinafter, "JAG") Legal Assistance offices assist with such preparation. The military POA that the JAGs prepare is valid under federal law.

If there is no prior POA on file and the servicemember is injured and incapacitated, a JAG officer is usually available to assist family members who wish to petition a local court of jurisdiction for a court-appointed guardianship. However, JAG officers are usually prohibited from appearing in court with a family member.

Section 107 of the Committee bill would require DOD, in consultation with VA, to develop a form for the designation of a fiduciary to administer TSGLI funds distributed under section 1980A of title 38, United States Code, in cases where the servicemember is mentally incapacitated or experiencing an extended loss of consciousness. Determinations of mental incapacity would be determined by Secretary of Defense in consultation with the Secretary of Veterans Affairs. The Committee expects that having servicemembers make this designation will prevent their families from having to shoulder the undue burden of obtaining court-appointed guardianship over their loved ones in order to access needed TSGLI funds.

Sec. 108. Enhancement of veterans' mortgage life insurance.

Section 108 of the Committee bill, which is derived from S. 1315 as introduced, would increase the maximum amount of Veterans' Mortgage Life Insurance (hereinafter, "VMLI") that a service-connected disabled veteran may purchase from the current maximum of \$90,000 to \$150,000, then from \$150,000 to \$200,000 on January 1, 2012.

The VMLI program was established in 1971 and is available to service-connected disabled veterans who have received specially adapted housing grants from VA. In the event of the veteran's death, the veteran's family is protected because VA will pay the balance of the mortgage owed up to the maximum amount of insurance purchased.

In today's housing market where, according to the Federal Housing Finance Board, the average mortgage loan in the United States in June 2007 is \$234,200, the current maximum is not adequate. Section 108 of the Committee bill would ensure that this important benefit, which helps secure the financial future of many veterans and their families, keeps pace with changes in the economy.

TITLE II—HOUSING MATTERS

Sec. 201. Home improvements and structural alterations for totally disabled members of the Armed Forces before discharge or release from the Armed Forces.

Section 201 of the Committee bill, which is derived from S. 1096, would allow VA to provide home improvements and structural alterations to permanently disabled members of the Armed Services before discharge or release from the Armed Forces.

Under current law, VA may furnish financial assistance of up to \$4,100 home improvements and structural alterations to the homes of certain veterans with service-connected disabilities as part of the

continuing medical services available under chapter 17 of title 38, United State Code. The improvements and structural alterations covered include all those that VA deems appropriate to ensure the effective and economical continuation of the veteran's treatment once he or she is discharged from care at a VA facility. Typical examples are lifts, therapeutic and rehabilitative devices and any alterations the veteran may need to access the entrance of his or her home or essential lavatory and sanitary facilities. Under current law, this benefit is only available to those discharged from active service.

The Committee recognizes that there are a growing number of active duty members of the Armed Forces, especially those who have served in OEF and OIF, who are receiving ongoing treatment for disabilities directly related to their service. Thus, despite the fact that they have not been discharged from service and are not yet legally considered "veterans," these servicemembers may be in need of the same benefits and assistance provided to veterans under title 38. The purpose of this section of the Committee bill is to make critical readjustment benefits available to servicemembers when they need them, rather than forcing them to wait until they transfer to the appropriate status.

Section 201 of the Committee bill would add a new subsection to section 1717, title 38, United States Code, which would permit VA to make certain active duty members of the Armed Forces with disabilities permanent in nature eligible for home improvements and structural alterations financial assistance from VA. VA would be required to determine that the permanent disability was incurred or aggravated by an active member of the Armed Forces while in the line of duty. In addition, the servicemember would have to be hospitalized or receiving medical care, services, or treatment with the likelihood that he or she will be discharged or released from the Armed Services for such disability. The amount of assistance available would be limited to the same amount currently available to veterans under section 1717.

Sec. 202. Eligibility for specially adapted housing benefits and assistance for members of the Armed Forces with service-connected disabilities and individuals residing outside the United States.

Section 202 of the Committee bill, which is derived from S. 1096, would make members of the Armed Forces with certain severe service-connected disabilities and such disabled individuals residing outside the United States eligible for specially adapted housing benefits and assistance.

Section 2101 of title 38, United States Code, permits VA to assist veterans with certain permanent and total service-connected disabilities acquire housing with special features or adapt their existing residences with special features. These special features are those which are deemed appropriate by VA to assist the veteran in living independently with the qualifying service-connected disability. Under current law, veterans and members of the Armed Forces with certain severe service-connected disabilities, including: loss, or loss of use, of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; blindness in both eyes, having only light perception, plus loss

or loss of use of one lower extremity; loss, or loss of use, of one lower extremity together with residuals of organic disease or injury, or the loss, or loss of use, of one upper extremity which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; or loss, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbows, are eligible to receive grants of up to \$50,000 pursuant to sections 2101(a), title 38, United States Code. Veterans or members of the Armed Forces with service-connected blindness only or who have suffered the anatomical loss or loss of use of both hands are eligible to receive grants of up to \$10,000 pursuant to section 2102(b).

Section 2101 also includes authority to grant these benefits to members of the Armed Forces serving on active duty. Eligibility of members of the Armed Forces is subject to the same criteria and conditions as the eligibility of veterans. However, the other sections of chapter 21, title 38, United States Code, do not contain language that explicitly makes these provisions applicable to members of the Armed Forces. Most notably, section 2102A, which provides certain assistance to veterans residing temporarily in housing owned by a family member, is not currently available to members of the Armed Forces.

Section 202 of the Committee bill would eliminate this disparity by adding a new subsection to 2101A, which would stipulate that any reference to a veteran or eligible individual in chapter 21 be treated also as a reference to a member of the Armed Forces.

In addition, section 202 of the Committee bill would give VA discretionary authority to provide benefits and assistance under chapter 21 to eligible disabled individuals who reside outside of the United States.

Current law is silent on whether chapter 21 specially adapted housing benefits are available to eligible individuals who reside outside of the United States. Section 36.4411 of title 38, Code of Federal Regulations, limits assistance under chapter 21, title 38, United States Code, to properties situated within the United States, including all territories and possessions thereof. Thus, VA is prohibited from providing assistance to otherwise eligible individuals who would use the assistance to acquire or adapt housing outside of the specified geographical limits unless the regulatory requirement is waived by the Secretary.

Section 202 of the Committee bill would explicitly grant VA the authority to provide chapter 21 specially adapted housing benefits and assistance to eligible individuals living outside of the United States, subject to the laws of the country or political subdivision where the housing is located. The sole exception to this extension of authority is section 2106, Veterans' Mortgage Life Insurance. These benefits are exempted because their inclusion would require VA to navigate the property laws of any foreign country where an applicant might wish to use his or her housing assistance. The Committee believes this would create an undue burden on VA.

Sec. 203. Specially adapted housing assistance for individuals with severe burn injuries.

Section 203 of the Committee bill, which is derived from S. 1096, would provide specially adapted housing assistance for individuals with severe burn injuries.

Under current law, eligibility for specially adapted housing benefits in chapter 21, title 38, United States Code, is restricted to individuals with certain permanent and total service-connected disabilities due to blindness or the loss, or loss of use, of a limb or limbs, or some combination of the two. Other disabled veterans, including those with severe burn injuries, are not currently eligible for these benefits.

Advancements in battlefield medicine are ensuring that more burn victims survive and have the need for special living accommodations once they return home. Staff at the Brooke Army Medical Center in San Antonio, Texas, which is the DOD's leading center for the treatment and rehabilitation of burn victims, have reported the need for adaptive housing for burn victims.

Section 203 of the Committee bill would expand eligibility for benefits under sections 2101(a) and 2101(b), title 38, United States Code, to include individuals with service-connected disabilities due to severe burn injuries. The scope and definition of what constitutes a "disability due to a severe burn injury" would be determined pursuant to regulations prescribed by VA.

Sec. 204. Extension of assistance for individuals residing temporarily in housing owned by a family member.

Section 204 of the Committee bill, which is derived from S. 1096, would extend VA's authority to provide specially adapted housing assistance to individuals residing temporarily in housing owned by a family member.

Under current law, section 2102A of title 38, United States Code, disabled veterans residing temporarily in housing owned by a family member are eligible for the specially adapted housing assistance authorized by subsections (a) and (b) of section 2101 of title 38, United States Code. Section 2101A was enacted as part of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006 on June 15, 2006. The authority to provide assistance under that section terminates after the end of the five-year period beginning on the date of enactment.

Section 204 of the Committee bill would amend section 2102A(e), of title 38, United States Code, to extend the period of authorization for specially adapted housing assistance to individuals residing temporarily in housing owned by a family member until December 31, 2011.

Sec. 205. Supplemental specially adapted housing benefits for disabled veterans.

Section 205 of the Committee bill, which is derived from S. 1326, would authorize supplemental specially adapted housing benefits to disabled veterans.

Under current law, veterans and members of the Armed Forces with certain severe service-connected disabilities, including: loss, or loss of use, of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; blind-

ness in both eyes, having only light perception, plus loss or loss of use of one lower extremity; loss, or loss of use, of one lower extremity together with residuals of organic disease or injury, or the loss, or loss of use, of one upper extremity which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; or loss, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbows, are eligible to receive grants of up to \$50,000 pursuant to sections 2101(a), title 38, United States Code. Veterans or members of the Armed Forces with service-connected blindness only or who have suffered the anatomical loss or loss of use of both hands are eligible to receive grants of up to \$10,000 pursuant to section 2102(b).

Section 205 would create a discretionary program to provide supplemental benefits to individuals who are already eligible to receive these benefits. A new section 2101B would be added to title 38, United States Code, which would authorize VA to disburse supplemental assistance to eligible individuals in addition to the capped amounts currently specified in sections 2102(d)(1) and 2102(d)(2). Disbursement of these supplemental funds would be subject to their specific availability through an appropriation Act. VA would be prohibited from making supplemental payments if all funds specifically provided for that purpose in an appropriations act have already been expended.

Section 205 would authorize VA to pay up to an additional \$10,000 to those eligible for assistance pursuant to section 2101(a), increasing the total amount of funds available per grant, from both the mandatory and discretionary accounts, to \$60,000. Individuals eligible for assistance pursuant to section 2101(b) would be able to receive up to an additional \$2,000 in assistance, increasing the total amount of funds available per grant to \$12,000.

Section 205 would also direct VA to provide for an annual adjustment of the maximum available supplemental funds. VA would be required to establish a residential home cost-of-construction index upon which this adjustment would be based. The supplemental funds would increase, effective October 1 of each fiscal year, by the same percentage by which the residential home cost-of-construction index increased in the preceding calendar year.

In order to assess the adequacy of the supplemental funds provided in this section to meet the demand of eligible beneficiaries, section 205 would require VA to provide estimates to Congress at least three times a year. VA would be required to provide an estimate of the amount of funding necessary to provide supplemental assistance to all eligible recipients for the remainder of that fiscal year and an estimate of the amount of funding Congress would need to appropriate to provide all eligible recipients with supplemental assistance for the next fiscal year. These estimates would equip the appropriate committees of Congress with the information needed to enable the Congress to fund fully the needs of all eligible recipients through future appropriations should they so choose.

Section 205 of the Committee bill is a result of the Committee's observation that increases in housing and home adaptation grants have been infrequent, despite the fact that real estate and construction costs are continually on the rise. Unless the amounts of the grants are periodically adjusted, inflation erodes the value and

effectiveness of these benefits, making it more difficult for beneficiaries to afford the accommodations they need. This section would allow Congress to exercise the option to appropriate additional discretionary funds for this purpose.

Sec. 206. Report on specially adapted housing for disabled individuals.

Section 206 of the Committee bill, which is derived from S. 1096, would require VA to conduct an assessment of the adequacy of the existing legal authorities available to VA to assist disabled veterans and members of the Armed Forces in acquiring specially adapted housing. VA would be required to submit the report to the Committees on Veterans' Affairs of the Senate and the House of Representatives no later than December 31, 2008.

Section 206 would require that the report focus on both the nature and extent of the assistance provided, and the scope of eligibility for such assistance. VA would be required to address various types of special features, including wheelchair ramps, doorways and hallways of ample width, grab bars, additional lighting fixtures, and other features for which assistance is available and explore in what areas the breadth of assistance may be lacking. VA would also be required to explore whether these benefits should be offered to veterans with disabilities other than those stipulated in the existing eligibility criteria.

Sec. 207. Report on specially adapted housing assistance for individuals who reside in housing owned by a family member on a permanent basis.

Section 207 of the Committee bill, which is derived from S. 1096, would require VA to issue a report on the advisability of providing specially adapted housing assistance for individuals who reside in housing owned by a family member on a permanent basis.

Under current law, section 2101A of title 38, United States Code, disabled veterans who are residing temporarily in housing owned by a family member are eligible for specially adapted housing assistance of either \$14,000 or \$2,000, depending on the nature of disability involved. Prior to enactment of this authority, a veteran or member of the Armed Forces had to intend to reside permanently in the residence for which he or she was seeking assistance in adapting. Section 2102A makes it possible, during a five-year period, for a veteran to obtain specially adapted housing assistance from VA while living on a temporary basis in a residence owned by a family member.

Section 207 of the Committee bill would require VA to submit a report to Congress on the advisability of extending the assistance provided under section 2102A to those servicemembers and veterans residing permanently in housing owned by a family member. The report would be due to the Veterans' Affairs Committees of the Senate and House of Representatives by December 31, 2008.

TITLE III—LABOR AND EDUCATION MATTERS

Sec. 301. Coordination of approval activities in the administration of education benefits.

Section 301 of the Committee bill, which is derived from S. 1290, would require VA to coordinate with the Departments of Labor and Education to reduce overlap and duplication with respect to approvals of programs of education. It would also require VA to submit to the House and Senate Committees on Veterans' Affairs a report on the actions taken to establish outcome-oriented performance standards and a tracking and reporting system for resources for State approving agencies, together with any recommendations for legislative action considered necessary.

Under provisions of chapter 36 of title 38, United States Code, VA contracts for the services of State approving agencies (hereinafter, "SAAs") for the purpose of approving programs of education at institutions of higher learning, apprenticeship programs, on-job training programs, and other programs that are located within each SAAs' State of jurisdiction. Generally, SAA approval of these programs is required before beneficiaries may use their educational assistance benefits to pay for them. SAAs are also tasked with assisting VA with various outreach activities to inform eligible VA program participants of the educational assistance benefits to which they are entitled. The Departments of Education and Labor also assess education and training programs for various purposes, primarily for awarding student aid and providing apprenticeship assistance.

In a March 2007, report prepared by the General Accounting Office (hereinafter, "GAO") at the request of Ranking Republican Member Craig entitled, "VA Student Financial Aid: Management Actions Needed to Reduce Overlap in Approving Education and Training Programs and to Assess State Approving Agencies", the GAO identified some overlap in approval efforts across agencies and concluded that "[i]t is important that VA work with other federal agencies . . . to reduce overlap and ensure that federal dollars are spent efficiently."

The GAO further recommended that VA should "require SAAs to track and report data on resources spent on approval activities . . . in a cost efficient manner." Finally, the report recommended that "the Secretary establish outcome-oriented performance measures to assess the effectiveness of SAA efforts." In its comments on the report, VA concurred with each of the GAO recommendations and noted that the agency is working toward establishing the reporting system and performance measures "with a goal of implementation in the FY08 budget cycle."

Therefore, section 301 would require VA to coordinate with these Departments to reduce overlap and duplication and to submit within 120 days a report on actions taken toward these goals, together with any recommendations for legislation if necessary to implement them fully.

Sec. 302. Modification of rate of reimbursement of State and local agencies administering veterans education benefits.

Section 302 of the Committee bill, which is derived from S. 1215, would modify the rate of reimbursement of State and local agencies administering veterans education benefits.

As discussed above, VA contracts for the services of SAAs for the purpose of approving programs of education at institutions of higher learning, apprenticeship programs, on-job training programs, and other programs. SAAs are also tasked with assisting VA with various outreach activities to inform eligible VA program participants of the educational assistance benefits to which they are entitled.

Since 1988, VA payment for the services of SAAs has been made only out of funds available for readjustment benefits, a mandatory funding account, and is thus subject to funding caps. Section 3674(a)(4) of title 38, United States Code, states as follows: "The total amount made available under this section for any fiscal year may not exceed \$13,000,000 or, * * * for fiscal year 2007, \$19,000,000." Thus, under existing law, the cap on the amount of funds that could be made available in fiscal years 2008 and beyond would revert to funding levels applied prior to fiscal year 2000—or a reduction of more than 32 percent.

Section 302 of the Committee bill would restore the cap on the amount that may be funded from readjustment benefits for SAAs to \$19 million beginning in fiscal year 2008 and each subsequent fiscal year.

Sec. 303. Waiver of residency requirement for State Directors of Veterans' Employment and Training.

Section 303 of the Committee bill, which is derived from S. 1215, would permit the Secretary of Labor to waive, on a case-by-case basis, a residency requirement for State Directors for Veterans' Employment and Training (hereinafter, "SDVET").

Current law, section 4103(a)(2) of title 38, United States Code, requires that each SDVET have been, at the time of appointment, a bona fide resident of the State for at least two years. The legislative history of this provision has been obscured by the passage of time, and the need for such a requirement is not documented. In a modern economy characterized by a mobile work force, as the Department of Labor (hereinafter, "DOL") testified, "the current durational residency requirement runs counter to merit principles and should not, in and of itself, be a condition for employment."

By providing the Secretary of Labor the ability to waive this requirement when it is determined to be in the public interest, this section would help ensure that the best qualified individuals from any state may apply for, and fill, an SDVET vacancy. DOL notes that it believes that "choosing from a greater pool of talent would lead to better management at the state level and better services provided to veterans and servicemembers."

Sec. 304. Modification of Special Unemployment Study to cover veterans of Post 9/11 Global Operations.

Section 304 of the Committee bill, which is derived from S. 1215, would modify the Special Unemployment Study required to be submitted by the Secretary of Labor to the Congress to cover veterans

of Post 9/11 Global Operations. It would further require the report to be submitted on an annual, rather than a biennial, basis.

Under current law, section 4110A of title 38, United States Code, requires the Secretary, through the Bureau of Labor Statistics, to submit a report every two years on the employment and unemployment experiences of Vietnam-era veterans, Vietnam-theater veterans, special disabled veterans, and recently separated veterans. This reporting requirement was added to the law by section 9(a) of Public Law 100-323, which was signed into law on May 20, 1988. As noted in S. Rpt. 100-128 that accompanied the legislation from which this provision was derived, the Committee had a continuing concern with rates of unemployment among these groups of veterans and with assessing the extent to which the employment-related needs were addressed.

The Committee believes that there is continued value in collecting this information but that the inclusion of data on more recent groups of veterans—those who served and are serving in the Gulf War and Post 9/11 Global Operations—would better help the Committee assess the needs of current veterans entering the work force and develop appropriate responses.

Sec. 305. Extension of temporary increase in benefits for apprenticeship and on-the-job training.

Section 305 of the Committee bill, which is derived from S. 1215, would extend for two years the increase authorized by section 103 of Public Law 108-454 in the monthly educational assistance allowance payable for apprenticeship or other on-the-job training under the various educational benefit programs administered by VA. The current authority for this increased rate, which is ten percentage points greater than that which would otherwise apply, expires on December 31, 2007. The increase proposed by this provision would apply to months beginning on or after January 1, 2008, and before January 1, 2010.

Eliminating the temporary increase would have the effect of imposing a monthly benefit rate cut on trainees enrolled in this type of training. An employer is only required to pay a trainee in an apprenticeship or other on-the-job training program 50 percent of the journeyman wages at the beginning of training and the educational assistance provided by VA helps supplement the lower wages. Under the existing temporary increase, instead of being paid 75 percent of the amount paid for full-time institutional training during the first six-month period, trainees are paid 85 percent of the amount. Although VA has not seen a significant increase in the number of individuals pursuing apprenticeship and on-the-job training programs, the Committee believes, and VA concurs, that the higher monthly educational assistance supplement provides a marketable incentive to encourage individuals to accept trainee positions they might not otherwise consider.

TITLE IV—FILIPINO WORLD WAR II VETERANS MATTERS

Sec. 401. Expansion of eligibility for benefits provided by Department of Veterans Affairs for certain service in the organized military forces of the Commonwealth of the Philippines and the Philippine Scouts.

Section 401 of the Committee bill, which is derived from S. 57, would deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines to be active military, naval, or air service for purposes of benefits provided under title 38, United States Code, and other provisions of law which use the title 38 definition. These organized military forces are those who were in the service of the Armed Forces of the United States pursuant to the military order of President Franklin D. Roosevelt, dated July 26, 1941, and include organized guerilla forces under the authority of the United States or the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 (hereinafter, "Filipino veterans").

Filipino veterans who were granted benefits prior to the enactment of the so-called Rescissions Acts of 1946 (Public Laws 79-301 and 79-391) currently receive full benefits under laws administered by VA. However, under current law, section 107 of title 38, United States Code, the service of certain other Filipino veterans is deemed not to be active service. Thus, these Filipino veterans only receive certain benefits prescribed in Title 38 and, depending on where they legally reside, are paid at a reduced rate. These benefits include service-connected compensation benefits paid under chapter 11 of title 38, United States Code, dependency indemnity compensation (hereinafter, "DIC") survivor benefits paid under chapter 13 of title 38, United States Code, and burial benefits under chapters 23 and 24 of title 38, United States Code. These benefits are paid to beneficiaries at the rate of \$0.50 per dollar authorized, unless they lawfully reside in the United States. Dependents' educational assistance under chapter 35 of title 38, United States Code, is also paid at the rate of \$0.50 per dollar authorized, regardless of residency.

The purpose of deeming the service of the Filipino veterans as active service is to recognize generally that their service occurred at time when the Philippines were a possession of the United States and subject to the laws of the United States. These Filipino veterans were recruited into service by the United States government or otherwise worked with and under the command of the United States Armed Forces during and shortly after World War II. As noted by Sidath Viranga Panangala, Analyst in Social Legislation, Congressional Research Service, Library of Congress, during testimony before the Committee on April 11, 2007, these Filipino veterans were considered by the Veterans' Administration (the predecessor of VA) to be veterans of the United States military, naval and air service until that status was revoked by the Rescission Acts of 1946.

Under the Committee bill, Filipino veterans who receive service-connected compensation due to disabilities incurred or aggravated during military service would receive the same benefit amounts regardless of where they reside. Currently, Filipino veterans lawfully residing in the United States who receive VA service-connected

compensation are paid at the full dollar rate. However, approximately 2,500 of these veterans living outside the United States are currently paid benefits under chapter 11 of title 38, United States Code, at a reduced rate of 50 cents per \$1.00 authorized. The committee intends that all benefits paid under Chapter 11 for disabilities incurred or aggravated during military service should be paid at the same rate regardless of the residence of the Filipino veteran. As Senator Inouye testified during the Committee's April 11 hearing on the proposed "Filipino Veterans Equity Act of 2007", "an injury is just as painful in the Philippines as it is in the United States."

The Committee bill would, however, maintain the reduction of benefits paid to survivors of Filipino World War II veterans who live outside of the United States and receive DIC at the reduced amount of \$0.50 for each dollar authorized. DIC recipients who reside in the United States would continue to be paid at the full rate, as authorized under current law. Since DIC payments are not based upon need and are paid to the survivors of veterans who die of a service-connected disability, the Committee recognizes that the survivors of Filipino veterans who reside outside the United States should receive DIC paid at the same rate as other survivors. However, the Committee was not able to identify sufficient funding offsets to finance the cost of an increase in this benefit.

The Committee bill would enable Filipino veterans with service-connected disabilities who reside outside the United States to receive medical care under the criteria specified in section 1724 of title 38, United States Code, including care at the VA out-patient clinic in the Philippines. The Committee bill does not provide any other changes to current law regarding eligibility for health care outside of the United States. As no veteran, with certain exceptions, is furnished hospital, domiciliary care or medical services outside the United States, Filipino veterans without service-connected disabilities would not generally be eligible for health care benefits if residing outside of the United States. Filipino veterans residing in the United States would continue to qualify for health care in the same manner as any other veteran.

Severely disabled service-connected Filipino veterans would, under the Committee bill, be able to qualify for specially adapted housing grants under chapter 21, title 38, United States Code, under the same terms and conditions applicable to other veterans. The Committee notes that such benefits are not available outside of the United States, but that the Secretary has the authority to waive compliance with this regulation, since the statute is silent as to eligibility outside of the United States. (Section 202 of the Committee bill addresses the Secretary's authority to provide benefits outside the United States.)

Under the Committee bill, Filipino veterans who qualify for burial benefits under title 38, United States Code, would qualify for the same benefits paid at the same rate provided to other United States veterans. Filipino veterans would also qualify for burial in a national cemetery under the same terms and conditions as provided for other veterans. The Committee bill does not change the limitations on payment of transportation of the remains of a deceased veteran. Generally, in order to receive payment of transportation costs, the veteran must have died while hospitalized by VA

and burial must occur in the United States or in the Canal Zone. In cases where the veteran died in the United States, transportation may be authorized to the border of Mexico or Canada.

Under the Committee bill, the children of deceased or totally disabled service-connected Filipino veterans would qualify for benefits paid under chapter 35 of title 38, United States Code, and would be paid at the same rate and under the same conditions as the children of other veterans. The Committee bill does not alter the provision of current law, section 3532, title 38, United States Code, which provides for payment of educational benefits at the rate of \$0.50 for each dollar authorized for children of veterans who are pursuing a program of education at an institution located in the Philippines.

Filipino veterans and survivors would, under this section of the Committee bill, qualify for housing and small business loans provided under chapter 37, title 38, United States Code, under the same terms and conditions applicable to other veterans. Under current law, the VA home-loan program does not provide for loans outside of the United States. Likewise, small business loans provided to disabled veterans are not available unless the entity is subject to the examination or supervision of the United States or a state. Thus, these benefits would only be available to veterans, including Filipino veterans, residing within the United States.

Finally, the Committee bill would define "United States" to mean the States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands and any other possession or territory of the United States. The term "United States" has a number of different definitions throughout the United States Code. All of the jurisdictions included in this provision of the Committee bill are listed in some or all of the definitions. The Committee's intent is to indicate clearly jurisdictions considered a part of the United States for purposes of benefits paid under this bill.

The Committee bill would result in eligibility for non-service-connected pension and death pension benefits as provided in chapter 15 of title 38, United States Code. However, Filipino veterans and their survivors who reside outside of the United States would be paid pursuant to a new special service pension, rather than the VA pension benefits provided to veterans and survivors who reside in the United States.

In the case of Filipino veterans and survivors who reside outside the United States, the Committee bill would provide for a flat-rate pension for veterans and survivors. Unlike veterans and survivors residing in the United States, veterans residing the Philippines would not be required to document income, assets or medical expenses in order to receive this flat-rate pension. All beneficiaries residing in the Philippines would receive the same amount of non-service-connected pension benefits, depending on their status as single, married or survivor—single Filipino veterans would be eligible to receive \$3,600 per year, married Filipino veterans would receive \$4,500 per year and survivors would receive \$2,400 per year.

The Committee believes that the responsibility for Filipino veterans residing in the Philippines should be a shared responsibility. Therefore, under the Committee bill, these special pension benefits would only be paid to persons residing in the Philippines if current

Philippine law barring receipt of Philippine government benefits for persons who receive a monetary benefit from the United States is repealed.

During the Committee's April hearing, in response to a question from Chairman Akaka, the Honorable H.E. Willy C. Gaa, the Philippine Ambassador to the United States, acknowledged that under current Philippine law, a veteran or survivor who receives a benefit from the United States government based on a Filipino veteran's military service is not eligible to receive benefits normally paid to Filipino veterans by the Philippine government. Ambassador Gaa noted his support for changing this Philippine law so that the Philippine grants would be continued if VA pension benefits were granted. The Committee appreciates the commitment made by the President of the Republic of the Philippines, Gloria Macapagal Arroyo, in an April 5, 2007, letter to President George W. Bush stating that "we will continue to provide these veterans with pension benefits and medical care even after legislation is passed in the United States granting them pension." The text of the letter follows:

MALACANAN PALACE,
Manila, Philippines, April 5, 2007.

His Excellency, GEORGE W. BUSH,
President, United States of America,
The White House,
Washington, DC.

DEAR PRESIDENT BUSH: Our continuing cooperation in the war against terror had led to significant victories. Working closely and with the support of your military, security forces have captured or neutralized key al-Qaeda linked terrorists in Mindanao. We have blocked the spread of terror to the rest of the region and quashed terrorist hopes of establishing an extremist pan-Asian Islamic caliphate in Southeast Asia.

The sacrifices made by the brave men and women from both our countries in winning the war on terror remind me of the uncommon courage and valor of another group of brave soldiers that fought together with American soldiers—our Filipino World War II veterans.

Over the decades, many efforts have been made to address the great inequity suffered by the Filipino World War II veterans.

Today, thanks to strong bipartisan support from both Houses of the U.S. Congress, the few remaining veterans, many in their 80s and 90s, are poised to receive what was rightfully theirs. These living symbols of the very liberties and freedoms that we now enjoy are close to finally seeing justice and equity.

Given their contributions to preserving democracy and given that our historic and strategic cooperation continues in fighting challenges to the values and ideals that we all share and hold dear, it is my hope that you will support these efforts in Congress to pass legislation that would allow our Filipino veterans to obtain the benefits they have long sought for and truly deserve.

On our part, we will continue to provide these veterans with pension benefits and medical care even after legislation is passed in the United States granting them pension.

I look forward to your kind support on this issue and to our continued cooperation in pursuing the war against terror.

GLORIA MACAPAGAL-ARROYO,
President of the Republic of the Philippines.

Therefore, the Committee anticipates that the current Philippine law would be repealed if this bill is enacted.

The Committee recognizes the lack of available systems such as the Social Security Administration and Internal Revenue Service data matches used in the United States to verify income and assets of veterans in the Philippines. Without access to comparable systems, it would be extremely difficult, if not impossible, to administer the pension and death pension programs in the same manner as is done in the United States. The Committee also acknowledges the difficulty which veterans and survivors in the Philippines would experience if required to establish the amount of annual income and provide verification of financial eligibility and medical expenses. Therefore, Filipino veterans and survivors would be exempt from the income and asset tests used in the United States. The Committee expects that the flat rate pension will reduce administrative costs and result in more timely payments to these elderly beneficiaries.

In establishing the flat rate payment, the Committee took into consideration a number of factors, including those identified by witnesses at the Committee's hearing on S. 57. Among the factors considered was the feasibility of administering a needs-based program to thousands of beneficiaries residing outside of the United States, the difficulty of verifying income and assets of persons residing outside of the United States, the difference in the amount of money needed "to live in dignity and without welfare" (the purpose of the VA pension program as described in the 2004 report, "Evaluation of the VA Pension Program: Final Report") in the Philippines where many of these veterans and survivors reside, and the desire to provide benefits to these elderly veterans and survivors in a timely manner. During the Committee hearing, Ambassador Gaa indicated that he personally would "support legislation that would recognize the different economic conditions but that also recognizes the sacrifices" of our Filipino veterans.

VA's witness, Ronald R. Aument, Deputy Under Secretary for Benefits, opposed providing pension benefits to veterans and survivors residing in the Philippines at the same rate as paid to veterans residing in the United States and expressed concern that such a proposal would disproportionately favor Filipino veterans over U.S. veterans. In response to questioning by Chairman Akaka, Mr. Aument indicated that taking into consideration the difference in the cost of living in the United States and the Philippines would address "one of the most significant hurdles and barriers to this bill," but noted that he was not prepared to state what the Administration could support.

The Committee also heard testimony from Filipino veterans and advocates Maria Luisa Antonio, Executive Director, Veterans Equity Center; Jenah Yangwas, Student Action for Veterans Equity; Manuel B. Braga, Commander, Filipino World War II Veterans Federation of San Diego County; Artemio A. Caleda, President, World War II Filipino-American Veterans and Ladies Auxiliary of

Hawaii; Avelino Asuncion, Chairman San Diego Chapter, American Coalition for Filipino Veterans, Inc.; Benito Valdez, Filipino Community of Seattle; and Lieutenant Colonel Edwin Price Ramsey, U.S. Army (Retired) who urged that veterans residing in the Philippines receive benefits identical to those provided to veterans residing in the United States. These witnesses noted that Filipino veterans and their survivors are of advanced age and that many are ill and infirm and living well below the minimum subsistence level needed to live in dignity and without welfare.

Taking into account all of these various factors and the testimony provided, the Committee bill would provide a special service pension for Filipino veterans and their survivors which would be higher than the \$820 per year which the VA suggested would provide a comparable benefit, but lower than the amounts paid to veterans residing in the United States or to Filipino veterans residing outside the United States who qualify for benefits under title VIII of the Social Security Act. The amount established recognizes that Filipino World War II veterans residing in the Philippines have been denied eligibility for pension benefits for more than 60 years, would not be provided additional benefits if they are housebound, in need of aid and attendance or have additional dependents other than a spouse, and would not have medical expenses deducted from other income in determining eligibility.

The Committee believes that, taking into account the cost of living in the Philippines, the benefits proposed under the Committee bill should ensure an income level above the minimum subsistence level and allow Filipino veterans and survivors to live in the Philippines with dignity. The Committee intends that death pension benefits be made available to surviving spouses and dependent children who would have that status if the benefits were being provided in the United States. Therefore, under the Committee bill, a surviving spouse who had not remarried since the death of the veteran and who would be otherwise eligible for benefits or a surviving unmarried child who is not in the custody of the surviving spouse and who would otherwise be eligible for benefits (including an adult disabled child) would be eligible for a flat rate benefit of \$2,400 per year. These flat rates would be subject to the same annual adjustment of pension amounts provided to other pension beneficiaries under section 5312 of title 38, United States Code.

Because income and assets would not be considered in determining eligibility for the special service pension provided to Filipino veterans and survivors residing in the Philippines, the Committee bill would exempt those beneficiaries from the requirements of subsection (a) of section 1503 and from sections 1506, 1522 and 1543 of title 38, United States Code. The Committee intends that the Secretary would continue to use the procedures authorized by law in determining eligibility for the special service pension provided to married veterans, including any requirements for reporting the termination of the marriage. In the event that a veteran who receives the higher amount paid to a married veteran is overpaid as the result of failing to report the termination of a marriage in a timely manner, the Committee intends that the Secretary would exercise available authority to collect any overpayments resulting from such failure.

The Committee notes that approximately 2,300 Filipino World War II veterans residing in the Philippines receive special benefits based upon need from the Social Security Administration under title VIII of the Social Security Act, 42 U.S.C. 1001 et seq. In order to qualify for these needs-based benefits, a Filipino veteran must, as of December 14, 1999, have been 65 years of age or older, been a World War II veteran, been eligible for Supplemental Security Income (hereinafter, "SSI"), and had income less than 75% of the SSI benefit level (reduced by the amount of the veteran's income). The veteran must currently reside outside of the United States. These beneficiaries currently receive an average of \$525 per month. If VA pension were to be provided to such veterans, they would not receive any additional income, since the VA pension benefits would be counted in determining eligibility for, and the amount of benefits paid, under the Social Security Act. Therefore, the Committee bill provides that persons who are eligible for benefits under title VIII of the Social Security Act would not be eligible for VA pension.

The Committee recognizes that some Filipino veterans and survivors who would qualify for pension benefits under the bill may currently qualify for federal or federally-assisted benefits based upon need, such as food stamps, SSI, a state plan for medical assistance (Medicaid) or subsidized housing. In order not to disturb benefits currently relied upon, the Committee bill provides that, notwithstanding any other provision of law, persons who are receiving such benefits as of the date of enactment of the bill, may not be required to apply for VA pension benefits, if doing so would make the individual ineligible for existing benefits or reduce the amount of benefits received under these federal or federally-assisted programs. Under the Committee bill, Filipino veterans and their survivors who currently receive federal or federally-assisted benefits would be able to choose whether or not to apply for pension, based upon their personal assessment of the benefits and burdens of doing so. The Committee intends that this transitional provision will protect the established rights and benefits of such veterans and their survivors.

The special rates for pension and death pension benefits paid to veterans and survivors residing outside of the United States would apply to claims filed on or after May 1, 2008. This effective date should enable the VA to develop policies and procedures to implement the special pension program. The Committee expects that given the advanced age of the beneficiaries and the simplified program provided that the VA will act expeditiously to provide benefits to these veterans. In the event that applications are submitted to VA before the effective date, the Committee expects that such applications would be considered filed as of May 1, 2008. Further, it is the Committee's intent that what constitutes residency for purposes of benefits paid outside of the United States will be determined by the Secretary by regulation and that brief travel into or outside the United States would not result in a change of residency status.

Sec. 402. Eligibility of children of certain Philippine veterans for educational assistance.

Section 402 of the Committee bill would amend section 3565(b) of title 38, United States Code, relating to education benefits for children of certain Filipino veterans, so as to modify those benefits.

Under current law, children of those veterans whose service during World War II is being deemed by the changes in section 401 of the Committee bill to be active military service for purposes of veterans benefits, are paid educational benefits under chapter 35 of title 38, United States Code, at the rate of \$.50 for each dollar authorized, regardless of where they might undertake a qualifying course of study.

Section 402 of the Committee bill would provide that these children of deceased or totally disabled service-connected Filipino veterans qualify for benefits under chapter 35, and would be paid at the same rate and under the same conditions, as the children of other veterans.

The Committee notes that based upon information received from VA, no children of Filipino veterans residing in the United States were paid benefits under this provision during the last fiscal year, which suggests that it is unlikely that there will be any children living in the United States who will qualify for this benefit. In the event, however, that such a child would become eligible at some future point, the benefits provided would recognize the status of Filipino veterans provided by section 401 of the Committee bill.

Finally, the Committee notes that the Committee bill does not alter the provision of current law, section 3532(d) of title 38, United States Code, which provides for payment of educational benefits at the rate of \$0.50 for each dollar authorized for children of veterans who are pursuing a program of education at an institution located in the Philippines.

TITLE V—COURT MATTERS

Sec. 501. Recall of retired judges of the United States Court of Appeals for Veterans Claims.

Section 501, which is derived from S. 1289, would eliminate the current restrictions on how many days per year a retired judge of the U.S. Court of Appeals for Veterans Claims (hereinafter, "CAVC" or "Court") may voluntarily serve in recall status; would modify the retirement pay structure for CAVC judges appointed on or after the date of enactment; and would exempt retired judges from involuntary recall once they have served an aggregate of five years of recall service.

Under current law, retiring CAVC judges make an election whether to be recall-eligible. The CAVC Chief Judge has the authority to recall involuntarily a retired judge who chooses recall-eligible status for up to 90 days per calendar year or, with the consent of the judge, for up to 180 days per calendar year. A recall-eligible retired judge receives annual pay equal to the annual salary of an active judge (pay-of-the-office), without reference to how much recall service is performed during a year.

Section 501 of the Committee bill would modify the authorities for the recall of retired judges and the retirement pay structure. First, this section would repeal the 180-day limit on how many

days per calendar year a recall-eligible retired judge may voluntarily serve in recall status. In addition, for judges appointed on or after the date of enactment, it would create a three-tiered retirement pay structure. Specifically, pay-of-the-office would be reserved for judges who are actively serving, either as a judge of the Court or as a retired judge serving in recall status. When not serving in recall status, a recall-eligible retired judge would receive the rate of pay applicable to that judge as of the date the judge retired, as increased by periodic cost-of-living adjustments. A retired judge who is not recall eligible would receive the rate of pay applicable to that judge at the time of retirement. Finally, section 501 would exempt current and future recall-eligible retired judges from involuntary recall once they have served an aggregate of five years of recall service.

By removing the cap on voluntary recall service and exempting recall-eligible judges from involuntary recall once they have served a cumulative total of five years of recall service, the Committee intends to provide both the authority and an incentive for recall-eligible judges to serve longer or more frequent periods of recall service. By reserving pay-of-the-office for those retired judges actually performing recall service, there will be an incentive for retired judges to continue offering their expertise in a time of need.

Section 502. Additional discretion in imposition of practice and registration fees.

Section 502, which is derived from S. 1289, would modify the Court's authority to impose certain registration fees.

Under section 7285 of title 38, United States Code, the CAVC is authorized to impose a periodic registration fee on individuals admitted to practice before the Court. The maximum amount of any such fee is currently capped at \$30 per year, an amount significantly lower than other federal courts generally charge. The Court is also authorized to impose a registration fee on individuals participating in the Court's judicial conference.

Section 502 would strike the \$30 cap on the amount of registration fees that may be charged to individuals admitted to practice before the Court. It would also clarify that any registration fee charged by the Court, either for those admitted to practice before the Court or those participating in the judicial conference, must be reasonable.

Section 503. Annual reports on workload of United States Court of Appeals for Veterans Claims.

Section 503 of the Committee bill, which is derived from S. 1289, would establish an annual reporting requirement for the CAVC. Specifically, it would require the CAVC to submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report summarizing the workload of the Court. The reporting requirements would include information regarding the number of appeals filed, the number of petitions filed, the number of applications for fees under the Equal Access to Justice Act, the number and type of dispositions issued by the Court, the median time from the filing of a case or application with the Court to the Court's disposition of that filing, the number of oral arguments held by the Court, the number and status of appeals and petitions

that remain pending, and a summary of any service performance by recalled retired judges.

In the view of the Committee, this information would be helpful in monitoring whether the Court has sufficient judicial resources to provide veterans with an appropriate level of service.

Section 504. Report on expansion of facilities for United States Court of Appeals for Veterans Claims.

Section 504 of the Committee bill, which is derived from S. 1289, would require the General Services Administration (hereinafter, "GSA") to provide to Congress a report regarding expansion of the CAVC's office space.

The CAVC is currently housed in a commercial office building in the District of Columbia. For several years, the CAVC and GSA have been studying the feasibility of constructing or obtaining a dedicated Veterans Courthouse and Justice Center, which would potentially be occupied by the Court and other entities that work with the CAVC. In February 2006, GSA provided Congress with a preliminary feasibility study regarding that project. Thereafter, the CAVC notified Congress that the most cost-effective alternative appeared to be leasing additional space in the Court's current location. However, the February 2006 feasibility report from GSA did not include an analysis of whether it would be feasible or desirable to locate a Veterans Courthouse and Justice Center at the Court's current location.

Section 504 would require GSA to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, within 180 days after the date of enactment, a report addressing the feasibility of the CAVC leasing additional space within its current building and using the entire building as a Veterans Courthouse and Justice Center.

TITLE VI—COMPENSATION AND PENSION MATTERS

Sec. 601. Addition of osteoporosis to disabilities presumed to be service-connected in former prisoners of war with post-traumatic stress disorder.

Section 601 of the Committee bill, which is derived from S. 848, would add osteoporosis to the list of disabilities presumed to be service-connected in former prisoners of war whom VA has previously determined suffer from post-traumatic stress disorder (hereinafter, "PTSD").

Section 1112(b) of title 38, United States Code, contains two lists of diseases that are presumed to be related to an individual's experience as a prisoner of war. The first presumptive list requires no minimum internment period and includes diseases associated with mental trauma or acute physical trauma which could plausibly be caused by even a single day of captivity. That list includes psychosis, any of the anxiety states, dysthymic disorder (or depressive neurosis), organic residuals of frostbite (if the Secretary determines that a veteran was interned in conditions consistent with the occurrence of frostbite), and post-traumatic osteoarthritis. The second list has a 30-day minimum internment requirement and includes avitaminosis, beriberi, chronic dysentery, helminthiasis, malnutrition, pellagra, any other nutritional deficiency, cirrhosis of the

liver, peripheral neuropathy, irritable bowel syndrome, peptic ulcer disease, atherosclerotic heart disease or hypertensive vascular disease, and stroke and its complications.

VA's Advisory Committee on Former Prisoners of War (hereinafter, "POW Advisory Committee"), in its March 13, 2007, report to VA, recommended that osteopenia/osteoporosis should be established as a presumptive disorder for former Prisoners of War with post-traumatic stress disorder because it meets the criteria for establishing presumptions according to the guidelines found in title 38, Code of Federal Regulations, parts 1 and 3. In section 1.18(b) of the Code of Federal Regulations, VA is given authority "to establish a presumption of service-connection for a disease when the Secretary finds that there is at least limited/suggested evidence that an increased risk of such disease is associated with service involving detention or internment as a prisoner of war and an association between such detention or internment and the disease is biologically plausible." Further, in section 1.18(b)(1), "limited/suggestive evidence" is defined as evidence that is medically or scientifically sound and is "reasonably suggestive" of an association between prisoner of war experience and the disease, "even though the evidence may be limited because matters such as change, bias, and confounding could not be ruled out with confidence *or because the relatively small size of the affected population restricts that data available for study.*" [Emphasis supplied.]

The POW Advisory Committee's report references original research conducted by the Robert E. Mitchell Center for Prisoner of War Studies (hereinafter, "Mitchell Center"), located in Pensacola, Florida, as providing a statistically significant link between PTSD and the increased risk of osteopenia/osteoporosis. According to studies conducted by the Mitchell Center, PTSD "causes" the adrenal gland to make excessive amounts of cortisol. High amounts of cortisol leads to low amount of calcium. Low amounts of calcium may lead to osteopenia/osteoporosis in later years.

Section 601 of the Committee bill would add osteoporosis to the list of disabilities presumed to be service-connected in former prisoners of war with PTSD who were detained for any period.

Sec. 602. Cost-of-living increase for temporary dependency and indemnity compensation payable for surviving spouses with dependent children under the age of 18.

Section 602 of the Committee bill would establish a cost-of-living increase for temporary DIC payable to surviving spouses with dependent children under the age of 18.

Under section 1310 of title 38, United States Code, VA provides DIC to surviving spouses if a veteran's death resulted from: (1) a disease or injury incurred or aggravated in the line of duty while on active duty or active duty for training; (2) an injury incurred or aggravated in the line of duty while on inactive duty training; or (3) a service-connected disability or a condition directly related to a service-connected disability.

In a May 2001, report, Program Evaluation of Benefits for Survivors of Veterans with Service-Connected Disabilities (hereinafter, "DIC Report"), a recommendation was made to increase DIC by \$250 per month for DIC surviving spouses with dependent children during the five-year period after the veteran's death. It was noted

in the DIC Report, “while the DIC program provides increased benefits for survivors that vary according to the number of dependent children, the evidence suggests a need for even greater benefit allowances for these survivors. Furthermore, this additional need is affected more by the presence of dependent children in the household than by number of children.”

Section 301 of Public Law 108–454 amended section 1311, title 38 United States Code, to authorize VA to pay a \$250 a month temporary benefit to a surviving spouse with one or more children below the age of 18, during the two years following application for the benefit. This provision was enacted in response to the DIC Report’s recommendation on the need for a transitional DIC benefit.

Section 602 of the Committee bill would authorize a permanent, automatic, cost-of-living adjustment for this temporary dependency and indemnity benefit so that the value of the benefit does not erode over time.

This cost-of-living increase would occur whenever there is an increase in benefits amounts payable under title II of the Social Security Act, section 401 et seq., title 38, United States Code.

Sec. 603. Clarification of eligibility of veterans 65 years of age or older for service pension for a period of war.

Section 603 of the Committee bill would amend section 1513 of title 38, United States Code, relating to VA pension benefits for veterans 65 years old and older, so as to clarify the scope of that provision. The Committee bill would overturn a decision of the United States Court of Appeals for Veterans Claims in *Hartness v. Nicholson*, 20 Vet. App. 216, 217 (2006), so as to reaffirm that certain VA pension benefits are only provided to veterans who are significantly disabled and not merely on the basis of age.

The provision of pension benefits to wartime veterans has a long history in American and English law. Officers of the Revolutionary War who served for the full term of the war were entitled to receive pay without regard to disability; service pensions were also provided to those who served for at least fourteen days in the War of 1812. Browning, Arthur, *A Treatise on the Laws Relating to Pensions, Patents, Bounties and Other Applications Before the Executive Departments*, (Washington D.C.: Gibson Bros., Printers and Bookbinders, 1893), at 73 (hereinafter “Browning”). Veterans of the Mexican War also were eligible for a service pension (Browning at 78), as were veterans of the Indian Wars (Browning at 82).

According to A Report to the President by The President’s Commission on Veterans’ Pensions, chaired by General Omar N. Bradley (April 1956) (Bradley Report) at 351:

Stripped of all passing considerations, the main concern of pension legislation for veterans has been to keep them and their kin from want and degradation. . . . Even where need was not required to be shown, it was presumed to exist by reason of old age. We have been unwilling as a Nation ever to see the citizen-soldier who had rendered honorable service reduced to the dishonorable status of “pauper.” Pensions were provided to them as an “honorable” form of economic assistance.

Prior to World War I, financial need was not an explicit basis for all pension benefits. Pension for veterans of the Indian Wars and Spanish American Wars were not based upon need. However, there are benefits, such as housebound and aid-and-attendance benefits, which have been based on a finding of disability. “Invalid pensions” were paid to Revolutionary War veterans and to Civil War veterans (Browning at 5 et seq.).

Current law continues the longstanding practice of providing pension benefits to veterans of wartime service. Under section 1521 of title 38, there are three elements that a veteran must establish to qualify for basic VA disability pension—service during a period of war, an annual income below specified levels (depending on the number of the veteran’s dependents), and disability, total and permanent in nature.

Each of these elements is integral to fulfilling the purpose of the basic disability pension benefit—service in a period of war so as to place the veteran in the special category of those who are seen to have a particular claim on the Nation’s gratitude, limited income so as to demonstrate the veteran’s need for financial assistance, and permanent and total disability so as to establish that the veteran’s status is not the result of some minor or temporary disability from which recovery can be expected.

While these three elements have been adjusted over the years—the amount of service required during a period of war, for example, or a change in what assets are included in determining a veteran’s income—one aspect that has been particularly challenging has been the relationship between finding a qualifying state of permanent and total disability and a veteran’s age.

In 1967, shortly after the enactment of the Medicare program, which uses age 65 as the point at which someone qualifies for the benefits of that program, the Congress passed legislation, enacted as Public Law 90–77, which provided that, at age 65, a veteran would be considered totally and permanently disabled for purposes of VA pension.

Later, in 1990, Congress again acted with respect to the question of age and disability, this time passing legislation, enacted as part of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, which repealed the automatic presumption of permanent and total disability at age 65.

Most recently, in 2001, the issue of age and disability was again before the Congress. As noted in the joint explanatory statement accompanying final passage of H.R. 1291, which was enacted as Public Law 107–103, the compromise legislation that dealt with this issue, the legislation was in response to an action taken by the Secretary of Veterans Affairs to address a looming backlog of claims.

The Veterans’ Affairs Committees had learned that the Veterans Benefits Administration had advised VA adjudicators to presume that veterans age 65 and older were totally and permanently disabled for VA pension purposes and, on that basis, to not require a physical exam before finding eligibility for pension.

While the Committee did not then, and does not now, believe that there is a rationale based in medical science for equating age 65 with permanent and total disability, it did recognize that there was merit to providing a service pension to older veterans, similar

to that provided to veterans of the Indian and Spanish American Wars, so as to allow VA to avoid using scarce resources to carry out examinations on impoverished, wartime veterans age 65 and over.

In enacting the legislation which added section 1513 to title 38, so as to provide a service pension to older wartime veterans, the House and Senate Committees on Veterans' Affairs noted their disapproval of the Secretary's failure to follow existing law, but agreed, as stated in the explanatory statement accompanying the legislation, that

A policy of requiring proof of disability for an aged wartime veteran with incomes (sic) below the pension benefit amount involves use of scarce agency resources without a commensurate return. The Committees have determined that aged wartime veterans should be provided a needs-based pension under conditions similar to that provided for veterans of the Indian Wars and the Spanish-American War. Joint Explanatory Statement on P.L. 107-103, Explanatory Statement on House Amendments to Senate Amendment to H.R. 1291, 147 Congressional Record December 13, 2001 at S13239 (hereinafter, "JES").

As noted above, the Committee bill would overturn a decision of the United States Court of Appeals for Veterans Claims in *Hartness v. Nicholson*, 20 Vet. App. 216 (2006) (hereinafter, "*Hartness*") which interpreted a reference to section 1521 in subsection (a) of section 1513 of title 38 to mean that veterans age 65 and older who applied for a service pension under that section would also be eligible to receive benefits on the basis of being housebound without meeting the disability criteria of section 1521.

The *Hartness* decision has resulted in disparate benefits for similarly situated veterans who differ only in whether they are 65 or older or younger than 65. As a result of this ruling, veterans who are 65 years of age and older are eligible to be paid at the higher housebound rate even if they have only one disability rated at 60 percent, a benefit which veterans who are under 65 years of age are not eligible to receive.

In *Hartness*, the Court was confronted with what it described as a question of first impression—the relationship between sections 1513 and 1521 of title 38. The question, as articulated by the Court, was whether section 1513 operated to remove the requirement that a veteran age 65 or older have both a total and permanent disability as well as the additional disabling conditions set forth in section 1521(e) in order to qualify for the additional benefits.

According to the Court's opinion, Mr. Hartness was a World War II veteran, over the age of 65 who originally sought a special monthly pension under section 1521 of the basis of both needing aid and attendance and being housebound. On appeal to the Court, Mr. Hartness dropped the aid and attendance element of his claim, focusing only on his meeting the criteria for the special benefit on the basis of being housebound. Also on appeal to the Court, Mr. Hartness shifted the focus of his argument from being entitled to pension under section 1521 and instead argued, for the first time, that he was entitled for this special benefit under section 1513.

The Court ruled that “the Board [of Veterans Appeals] *failed to apply section 1513* when considering whether Mr. Hartness was entitled to a special monthly pension *under 38 U.S.C. § 1521(e)*” and that “a wartime veteran is awarded a special monthly pension if, in addition to being at least 65 years old, he or she possesses *a minimum disability rating of 60 percent* or is considered permanently housebound.” [Emphasis supplied.] *Hartness* at 221–22.

It is the Committee’s view that the Court, in ruling that VA must apply the age criteria of the service pension paid under section 1513 to non-service-connected disability benefits paid under section 1521, misunderstood the intent of the service pension provided to older veterans under section 1513 and, in particular, subsection (b) of that section.

In its decision, the Court did not discuss the difference between service pensions and disability pensions; rather, the Court appeared to treat the two provisions in a similar fashion, understanding section 1513 to mean that older veterans could obtain significantly higher benefits, with their age substituting for the permanent and total disability requirement of section 1521(e).

The Committee recognizes the difficulty faced by the Court in *Hartness* in interpreting the two provisions and their relationship. The legislative history of section 207 of H.R. 1291, which added section 1513 to title 38, is sparse. In addition, the Court was hampered in its analysis by the apparent failure of VA to address in its brief the criteria for benefits under section 1513, including the limitation of subsection (b), and the ambiguous nature of the record with regard to Mr. Hartness’ eligibility for benefits under section 1521. *Hartness* at 222. Finally, the Court noted that VA’s regulations, at 38 CFR § 3.3, do not distinguish between the service pension paid under section 1513 and the non-service-connected disability pension paid under section 1521. *Hartness* at 221.

Based on the Court’s decision, it appears that VA apparently argued that “as a matter of law, Mr. Hartness is not entitled to a special monthly pension because he does not have a disability that is *rated* as permanent and total. . . .” [Emphasis supplied.] As a result, VA claimed that “Mr. Hartness does not meet the threshold requirements of 38 C.F.R. § 3.351 (d).” *Hartness* at 218.

The factual basis for VA’s position is not articulated in the decision. As the Court notes, “the record on appeal is ambiguous as to Mr. Hartness’ eligibility for non-service-connected pension and special monthly pension under section 1521.” *Hartness* at 222.

Under VA’s regulations, the criteria for permanent total disability are met “when the impairment is reasonably certain to continue throughout the life of the disabled person.” 38 CFR § 4.15. Total disability for pension purposes may be found when the veteran has a single disability rated at 60 percent and is unemployable. 38 CFR §§ 4.16 and 4.17.

Mr. Hartness was rated at 70 percent for one disability described as permanent. The Court cited, without disagreement, a physician report that “Mr. Hartness was *permanently* and legally blind because of *age-related macular degeneration of the retina*.” [Emphasis supplied.] *Hartness* at 217. The Court’s decision indicates that he relied on Social Security benefits for income and made no reference to any evidence suggesting that the veteran was employable. *Hartness* at 217. On these facts, it is unclear why VA believed Mr.

Hartness did not meet the permanent and total disability criteria of section 1521.

In light of these ambiguous factual matters, and given the prohibition on paying benefits under section 1513(b) to veterans who also qualify for benefits under section 1521, it is the Committee's view that the Court misconstrued the intent of section 1513, which is to provide only a service pension without any special monthly pension to older veterans who are not disabled under the criteria set forth in section 1521.

As noted above, the Court did not discuss the difference between service pensions and disability pensions. Rather, the Court apparently understood the prohibition against paying benefits under section 1513(b) if the veteran was eligible for benefits under section 1521 to mean that older veterans could obtain significantly higher benefits under section 1521(e) with their age substituting for the permanent and total disability requirement of that section. As a result, following *Hartness*, older veterans who have only one 60% disability may receive \$202 per month because they would be eligible for benefits paid at the housebound rate under section 1521(e) while younger veterans rated at 60% would only qualify for the basic pension amount. There is nothing in the legislative history of section 1513 to suggest that Congress intended such a disparate result.

In establishing a service pension for older veterans under section 1513, the Committees on Veterans' Affairs of the Senate and House "determined that aged wartime veterans should be provided a needs-based pension under conditions similar to that provided for veterans of the Indian Wars and the Spanish American Wars." JES at S13239. Thus, section 1513 was placed in the "Service Pension" part of "Subchapter II. Veterans Pensions" of chapter 15, the portion of the chapter under which veterans of the Indian Wars and the Spanish American War were entitled to pension benefits without regard to disability by sections 1511 and 1512, rather than in the "Non-Service-Connected Disability Pension" part of that subchapter where section 1521 is located.

Service benefits based upon age, and limited means, are provided under section 1513 to low-income wartime veterans who are 65 years of age or older. There is no requirement that veterans who receive a pension based upon age suffer from any disability, although some of these veterans may also have disabilities.

Under sections 1511 and 1512, the provisions under which older veterans who served during the Indian and Spanish American Wars were eligible for a service pension, veterans who were also disabled and thereby also eligible for a pension under section 1521, could make an irrevocable election to receive disability pension benefits under that section rather than service pension benefits. In enacting section 1513, however, the Congress did not provide such an option. Under section 1513(b), if a veteran is age 65 or older and also disabled, that veteran can only receive benefits under the non-service-connected disability pension of section 1521 and is not eligible to receive benefits under the service pension program provided by section 1513.

Section 1513 is silent with regard to any specific provision for housebound or aid-and-attendance benefits. The formal legislative history of section 207 of Public Law 107-103 contained in the JES

is likewise silent. However, while not reflected in the JES, the Committee notes that the language of section 1513 is identical to the language contained in H.R. 3087 of the 107th Congress, the proposed “Veterans’ Pension Improvement Act of 2001,” as introduced by Congressman Lane Evans, the then-Ranking Democratic Member of the House Committee on Veterans Affairs. In introducing this legislation, Mr. Evans stated that, if the bill were enacted, “VA would only be required to obtain a medical examination and a *finding of disability* for those veterans over age 65 who seek additional benefits based upon a disability which renders them homebound or in need of aid and attendance.” [Emphasis supplied.] 147 Congressional Record October 12, 2001 at E1859 (hereinafter, “Evans Introduction”).

Like H.R. 3087, section 1513(b) as enacted specifically provides that a veteran who qualifies for a pension based upon age who also meets the disability criteria of section 1521 is to be paid only under section 1521. There was no suggestion in Representative Evans introduction or in the enactment of the legislation that added section 1513 to title 38 that the age requirements of a service pension under section 1513 were intended to serve as a substitute for the total and permanent disability requirements for housebound or aid and attendance benefits paid under title 1521, as the *Hartness* decision holds.

Subsection (a) of section 1513 does require that the rates used to pay service pensions paid under that section will be “the rates prescribed by section 1521 of this title and under the conditions (other than the total and permanent disability requirement) applicable to pension paid under that section.” Benefits paid under section 1513, while paid by reference to the rates used in section 1521, are not and may not be paid under section 1521. In discussing the section 1521 cross reference, the JES explained that these

veterans must still meet the nondisability requirements of section 1521 of title 38, United States Code, such as income and net worth. In determining that benefits will be provided at age 65 without regard to employment status, the Committees noted that any veteran employed full-time and receiving at least a minimum wage would not qualify for pension based on the pension income limitation. JES at S13239 (Compare, the JES language to the Evans Introduction at E1859).

It is the Committee’s view that, by placing the benefits for aged veterans in the service pension part of chapter 15 of title 38, with the service pension for Indian and Spanish American War veterans, the intent was for benefits under section 1513 to be considered a separate and distinct benefit from the disability pension provided by section 1521, as was true for service pensions provided under sections 1511 and 1512.

It is the Committee’s further view that subsection (b) of section 1513 is intended to prohibit a veteran who is both aged and disabled from receiving benefits under section 1513.

Section 603 of the Committee’s bill would clarify that veterans who qualify for service pension benefits based upon age under section 1513 are not eligible to receive special monthly pension under the same criteria applied in that section. Instead, older veterans

must qualify for special monthly pension benefits under all of the criteria of section 1521, the same criteria applied to younger disabled veterans, if they are so disabled as to be housebound or require aid and attendance.

This clarification would be effected by amending section 1513 so as to list the separate provisions of section 1521 that are to be used in connection with determining eligibility for a service pension under section 1513 and the amount of benefits to be paid under that section. The provisions in the Committee bill exclude the rates related to special monthly pension, namely housebound benefits and aid-and-attendance benefits contained in subsections (d), (e), and (f)(2), (f)(3) or (f)(4) respectively of section 1521.

Because veterans who are actually housebound or in need of aid and attendance are likely to qualify for benefits under the criteria set forth in section 1521 under any circumstances, the Committee's bill would affect primarily those veterans who are age 65 and older and who are not significantly disabled.

The Committee intends that the proposed modification to section 1513 will be effective with respect to claims for pension filed on or after the effective date of the Committee bill.

TITLE VII—BURIAL AND MEMORIAL MATTERS

Sec. 701. Supplemental benefits for veterans for funeral and burial expenses.

Section 701 of the Committee bill, which is derived from S. 1326, would authorize supplemental benefits for veterans for funeral and burial expenses.

Our country has long been concerned that veterans have a proper burial. In 1862, President Lincoln signed legislation that authorized national cemeteries to ensure a proper burial for soldiers who died in the service of the country. Congress expanded burial benefits with the War Risk Insurance Act Amendments of 1917 so as to avoid a potter's field burial for war veterans. That act provided a cash payment, of no more than \$100, to pay for funeral and burial expenses for deaths occurring prior to separation from military service.

In 1923, the burial allowance was extended to veterans who died without sufficient assets to pay for burial. The asset limitation requirement was removed in 1936. In addition, eligibility for cash payments was extended to veterans who served during a war or died in the line of duty. In 1946, Public Law 79-529 increased the burial allowance from \$100 to \$150 for war veterans. The increase was justified by the increase in cost of a funeral and the many costly associated expenses. In 1958, Public Law 85-674 increased the burial allowance from \$150 to \$250. This increase was justified by increases in the cost of living. In 1973, Congress, in Public Law 93-43, set the amount of service-connected and non-service-connected burial expenses at \$800 (covering 72 percent of an average adult funeral) and \$250 (22 percent of the total cost), respectively. Congress intended to make veterans' burial benefits in line with the then-existent system of Federal civilian employees burial benefits. The increase also showed a clear recognition by the Federal Government of its responsibility to veterans who suffered a service-connected death. In 1978, the burial allowance for a service-con-

nected death was raised to \$1,100 (80 percent of the total cost). The non-service-connected death allowance rose from \$250 to \$300 where it has remained since that time.

Public Law 97-35, signed into law in 1981, restricted burial benefits to veterans who were in receipt of or entitled to receive compensation or pension at the time of death for non-service-connected deaths. The basis for the restriction was to impose some limitation on who was entitled to non-service-connected veterans benefits as the death rates among WW II veterans began to climb. By restricting the burial benefit, Congress was focusing the benefits so only the neediest of veterans were entitled to burial aid. A straight "needs test" was rejected because of the difficulty it would present to VA to administer a program that used such tax terms as "net estate" and "adjusted gross income." Congress thought it was hard enough for the Internal Revenue Service to decipher such terms and believed it to be beyond the then-capacity of the VA. Congress subsequently adopted an "eligible to receive pension or other compensation from VA" test. Congress thought this would be easier for the VA to administer with its then existing pension and compensation program.

In 2001, in Public Law 107-103, the service-connected burial benefit was raised from \$1,500 to \$2,000 for burial and funeral expenses for a service-connected death. Legislation at that time was spurred by the issuance of a VA report in December 2000, which showed the effect of inflation on the burial benefit. In 1973, the average cost of an adult funeral was \$1,116. In 1999, the average cost for an adult funeral had increased to \$5,157. Funeral costs were rising faster than the cost of inflation.

According to the National Funeral Directors Association, the average cost of a funeral, as of July 2004, was \$6,500. Section 701 is intended to increase the burial benefit to fight the erosion of this important benefit.

Section 701 would authorize supplemental benefits for both service-connected and non-service-connected allowances. Disbursement of these supplemental funds would be subject to their availability in advance in an appropriations act. The Secretary would be prohibited from making the supplemental payments if all funds specifically provided for this purpose in an appropriations act have already been expended. The supplemental benefit for those dying from service-connected disabilities would be \$2,100 above the current \$2,000 benefit, bringing the total authorized benefit to \$4,100. The non-service-connected supplemental benefit would be \$900 in addition to the current \$300, for a total of \$1,200 in authorized burial benefit. Finally, section 701 would also provide for an annual increase in the authorized supplemental allowance in both categories to preserve the purchasing power of the benefit.

Sec. 702. Supplemental plot allowances.

Section 702 of the Committee bill, which is derived from S. 1326, would authorize supplemental burial plot allowances for veterans.

A growing problem caught the attention of the Committee in 1972 and helped lead to the establishment of maximum plot allowances. According to testimony given by Dead Giveaway, a group of law students, at a 1972 Committee hearing, cemeteries advertised "free" or a "one time only perpetual care charge" to veterans in an

attempt to sell veterans plot space on a “pre-need basis.” According to Dead Giveaway’s testimony, the practice of cemetery owners was less of a patriotic gesture than a business venture. The cemetery operators charged veterans up to \$1,400 for a burial plot when the national average cost for a plot at that time was \$122. In 1972, the Pre-Arrangement Internment Association of America (PIAA) adopted a resolution stating that if Congress provided a plot allowance, then PIAA members would accept the sum provided by Congress as payment in full for America’s veterans.

Public Law 93–43, the same law that formally established the National Cemetery System in VA, authorized payment of not more than \$250 as a plot or interment allowance in connection with the burial of deceased veterans who die while properly admitted to a hospital, nursing home, or domiciliary administered or paid for by VA. Public Law 95–476 increased this allowance to \$300 in 1978.

Public Law 93–43 also authorized payment of not more than \$150 in connection with the burial of deceased veterans who choose to be interred at a cemetery not under the jurisdiction of the United States government. Public Law 107–103 increased this allowance to \$300 in 2001. Thus, as of 2001, plot allowances authorized in section 2303 of title 38, United States Code, were uniformly set at \$300.

While the increase in the plot allowance to \$300 in 2001 was significant, it has not been adjusted since, although this amount represents a fraction of what it was worth when the government began paying the plot allowance in 1973. The 1973 limits were developed as a means of protecting veterans from being overcharged for interment costs.

Public Law 97–35 limited, effective October 1, 1981, veterans’ burial and funeral benefits under sections 2302 and 2303 of title 38, United States Code, to burials of deceased veterans who were entitled to receive VA compensation or pension. Previously, the plot allowance had been available to any honorably discharged wartime veteran.

Under current law, VA will pay a \$300 plot allowance when a veteran is buried in a cemetery not under U.S. government jurisdiction if—the veteran was discharged from active duty because of a disability incurred or aggravated in the line of duty; the veteran was receiving compensation or pension, or would have been if they weren’t receiving military retired pay; or the veteran died in a VA facility. The plot allowance may be paid to the state for the cost of a plot or interment in a state-owned cemetery reserved solely for veteran burials if the veteran was buried without charge. The plot allowance cannot be paid to a deceased veteran’s employer or a state agency.

Section 702 of the Committee bill would create a program to authorize supplemental benefits to individuals who are already eligible to receive these benefits. Disbursement of these supplemental funds would be subject to their availability in advance in an appropriations act. VA would be prohibited from making the supplemental payments if all funds specifically provided for this purpose in an appropriations act have already been expended.

Section 702 would maintain the current \$300 plot allowance and authorize a new supplemental plot allowance of \$445. Section 702 would also provide for an annual increase in the authorized supple-

mental plot allowance to preserve the purchasing power of the benefit.

TITLE VIII—OTHER MATTERS

Sec. 801. Eligibility of disabled veterans and members of the Armed Forces with severe burn injuries for automobiles and adaptive equipment.

Section 801 of the Committee bill would provide eligibility for automobiles and adaptive equipment assistance to individuals suffering from the same disabilities due to severe burn injuries. Section 801 is meant to complement section 203 of the Committee bill, which would provide eligibility for specially adapted housing benefits to veterans and servicemembers suffering from disabilities due to severe burn injuries.

Under current law, chapter 39, title 38, United States Code, veterans and members of the Armed Forces are eligible for assistance with automobiles and adaptive equipment if they suffer from one of three qualifying service-connected disabilities: loss or permanent loss of use of one or both feet; loss or permanent loss of use of one or both hands; or a central visual acuity of 20/200 or less, or a peripheral field of vision of 20 degrees or less. Individuals with these disabilities experience great difficulty operating a standard automobile not equipped to accommodate their disabilities.

It has come to the Committee's attention during an oversight visit to the Brooke Army Medical Center (hereinafter, "BAMC") in San Antonio, Texas, that victims of severe burn injuries also experience great difficulty operating standard automobiles. BAMC is the DOD's leading center for the treatment and rehabilitation of burn victims and the home of the U.S. Army's Institute of Surgical Research Burn Unit. Staff at BAMC indicated that severe burn victims frequently need vehicles with special adaptations, as do amputees and the vision impaired. Due to the severe damage done to their skin, these individuals often require special adaptations for assistance in and out of the vehicle, seat comfort, and climate control.

Section 801 of the Committee bill would expand eligibility under section 3901 of title 38, United State Code, to include individuals with a service-connected disability due to a severe burn injury. The scope and definition of what constitutes a "disability due to a severe burn injury" would be determined pursuant to regulations prescribed by VA.

Section 802. Supplemental assistance for providing automobiles and other conveyances to certain disabled veterans.

Section 802 of the Committee bill, which is derived from S. 1326, would authorize supplemental assistance with automobiles and other conveyances to certain disabled veterans. Under current law, veterans and members of the Armed Forces with certain severe service-connected disabilities are eligible for assistance of up to \$11,000 for the purchase of an automobile or other conveyance pursuant to section 3902 of title 38, United States Code.

Section 802 would authorize a program to provide supplemental benefits to individuals who are already eligible to receive assistance for automobiles and other conveyances. A new section 3902A

would be added to title 38, United State Code, authorizing VA to disburse supplemental assistance to eligible individuals in addition to the capped amount currently specified in section 3902. Disbursement of these supplemental funds would be subject to their availability in advance of an appropriations act. VA would be prohibited from making the supplemental payments if all funds specifically provided for this purpose in an appropriations act have already been expended.

Section 802 would authorize VA to pay up to an additional \$11,484 to those eligible for assistance pursuant to section 3902, increasing the total amount of funds available per grant, from both the mandatory and discretionary accounts, to \$22,484.

Section 802 would also direct VA to enact an annual adjustment of the maximum available authorized supplemental funds. VA would be required to establish a method of determining the average retail cost of new automobiles for the preceding calendar year. The authorized supplemental funds would increase, effective October 1 of each fiscal year, by an amount equal to 80 percent of what VA determined to be the average retail cost of new automobiles for the preceding calendar year.

In order to assess the adequacy of the authorized supplemental funds provided in this section to meet the demand of eligible beneficiaries, section 802 would require VA to provide periodic estimates to Congress. VA would be required to provide an estimate of the amount of funding necessary to provide supplemental assistance at the authorized level to all eligible recipients for the remainder of that fiscal year; and an estimate of the amount of funding Congress would need to provide all eligible recipients with supplemental assistance at the authorized level for the next fiscal year. This measure would equip the appropriate committees of Congress with the information needed to fully fund the needs of all eligible recipients through future appropriations, should they so choose.

Section 802 of the Committee bill is a result of the Committee's observation that increases in automobile and adaptive equipment grants have been infrequent, despite the fact that the market prices of these items are continually on the rise. Unless the amounts of the grants are periodically adjusted, inflation erodes the value and effectiveness of these benefits, making it more difficult for beneficiaries to afford the accommodations they need. Section 802 would allow Congress to exercise the option to appropriate additional discretionary funds for this purpose.

Sec. 803. Clarification of purpose of the outreach service program of the Department of Veterans Affairs.

Section 803 of the Committee bill, which is derived from S. 1314, would amend section 6301 of title 38, United States Code, to clarify the scope of outreach efforts provided by VA.

Under current law, section 6301(a)(1) of title 38, United States Code, the purpose of VA's outreach program is to ensure that all veterans, especially those who have been recently discharged from active military, naval or air service and those who are eligible for readjustment or other benefits and services are provided timely and appropriate assistance to aid and encourage them in applying for and obtaining such benefits and services in order that they may

achieve a rapid social and economic readjustment to civilian life and to obtain a higher standard of living for themselves and their dependents. It currently contains no comprehensive definition of the term, "outreach."

Section 803 of the Committee bill would facilitate consistent implementation of VA's outreach responsibilities by modifying the "purpose section" of chapter 63 to include specific mention of the National Guard and Reserve. It would also create a statutory definition of the term "outreach" as it applies to VA. The definition would include VA's efforts to reach out in a systematic manner to provide information, services, and benefits to veterans, spouses, children, and parents and to ensure that all eligible individuals are fully informed about and assisted in applying for benefits and services for which they are eligible.

Sec. 804. Termination or suspension of contracts for cellular telephone service for servicemembers undergoing deployment outside the United States.

Section 804 of the Committee bill, which is derived from S. 1313, would allow servicemembers to terminate or suspend cellular telephone service when deployed outside of the United States.

Congress has long recognized that the men and women of our military services should have civil legal protections so they can devote their entire energy to the defense needs of the United States. These protections, which are commonly known as the "Servicemembers Civil Relief Act" (hereinafter, "SCRA") are currently found in the appendix to title 50, United States Code, beginning at section 501.

With over 1.2 million servicemembers deployed since the start of OEF and OIF, the Committee believes that the SCRA, previously the Soldiers' and Sailors' Civil Relief Act of 1940 (hereinafter, "SSCRA"), is in need of further amendment to take into account a modern form of technology—the cellular telephone.

As stated by Representative Overton Brooks in 1942, the SSCRA reflected "the desire of the people of the United States to make sure as far as possible that men in service are not placed at a civil disadvantage during their absence. It springs from the inability of men who are in service to properly manage their normal business affairs while away. It likewise arises from the differences in pay which a soldier receives and what the same man normally earns in civil life."

The earliest recognition of the need to provide civil protections for servicemembers in the United States dates back to the "stay laws" promulgated by Louisiana during the War of 1812. Louisiana suspended all proceedings in civil cases for four months as the British were advancing on New Orleans. The experience of people serving in the military during the Civil War led the Federal government and some states to enact stay laws, which had the effect of suspending legal actions to which the soldier or sailor was a party. Following the decision of the United States to enter World War I in 1917, the first modern version of SSCRA was enacted. These first provisions covered default judgments, stays of proceedings, evictions, mortgage foreclosure, insurance, and installment contracts. However, this Act self-terminated six-months after the cessation of World War I hostilities. In 1940, with the looming involve-

ment of the United States in World War II, Congress re-enacted the SSCRA almost verbatim in Public Law 76–861.

Various amendments were made to the SSCRA between 1942 and 2003. In 2003, the SSCRA was re-written, and re-named the Servicemembers Civil Relief Act. The bill was signed into law on December 19, 2003, as Public Law 108–189. According to Senate Report 108–197, the report accompanying S. 1136, the purpose was to:

[P]rovide for, strengthen, and expedite the national defense through protections extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the nation; and to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

These purposes are the same as those which the Congress contemplated when it enacted SSCRA in anticipation of potential war in 1940.

The Committee recognizes, however, that while the Congress' purposes remain as they were in 1940, there now exist business and social circumstances that did not exist when SSCRA was enacted. These changed circumstances need to be addressed to better reflect the requirements of today's servicemembers. The Committee bill would address these needs by restating and clarifying the language of SSCRA. But it would also modernize SSCRA by providing protections that address situations—e.g., the leasing of automobiles—not anticipated when SSCRA was enacted.

The amendment to SCRA that would be made by section 804 of the Committee bill would further reflect changes in American life by allowing a servicemember who receives orders to deploy outside of the continental United States for not less than 90 days to request the termination or suspension of any contract for cellular telephone service entered into before that date if the servicemember's ability to satisfy the contract or to utilize the service will be materially affected by that period of deployment.

Section 805: Maintenance, management, and availability for research of assets of Air Force Health Study.

Section 805 of the Committee bill, which is derived from S. 1421, would ensure that the assets from the Air Force Health Study (hereinafter, "AFHS") are transferred to the Medical Follow-up Agency (hereinafter, "MFUA") and maintained, managed and made available to researchers. In order to ensure that sufficient funds are made available for this purpose, funding in the amount of \$1,200,000 would be made available from VA accounts available for Medical and Prosthetic Research in each fiscal year from 2008 through 2011. In addition, funding from the same source would be provided in the amount of \$250,000 for each year to conduct additional research using the assets of the AFHS. Finally a report would be provided to the Congress by March 31, 2011, concerning the feasibility and advisability of conducting additional research using these assets or disposing of them.

In the late 1970's, Congress urged the DOD to conduct an epidemiologic study of veterans of "Operation Ranch Hand," the military units responsible for aerial spraying of herbicides during the Vietnam War. In response, the AFHS was initiated in 1982 to examine the effects of herbicide exposure and health, mortality, and reproductive outcomes in veterans of Operation Ranch Hand. The study is noteworthy for the amount of data and biological specimens collected. It cost over \$143 million and was concluded in 2006.

Prior to the conclusion of the AFHS, Congress directed VA to enter into an agreement with the then National Academy of Sciences (hereinafter, "NAS"), now the National Academies, to report on the scientific merit of retaining AFHS data after the study was concluded. A Committee formed by the Institute of Medicine (hereinafter, "IOM") of NAS issued its report entitled, "Disposition of the Air Force Health Study," in March of 2006. IOM concluded that the AFHS data assets were unique and of high quality and that the specimens were well preserved. IOM also found that analysis of the AFHS data had enhanced the understanding of the health of Vietnam veterans. The IOM Committee recommended that AFHS data assets be transferred to a custodian, such as MFUA, so that they could be made available for future research. The report also recommended that funding be made available for the preservation and marking of the research material.

Legislation enacted as section 714 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, authorized the Air Force to transfer custody of the data and biological specimens to MFUA. Funding from DOD was authorized to effect the transfer in fiscal year 2007.

The Committee agrees that the resources of the AFHS should be preserved and made accessible to researchers. Therefore, section 805 would require VA to provide funding during fiscal years 2008 through 2011 for the purposes recommended by IOM in the Disposition of the AFHS report.

Sec. 806. National Academies study on risk of developing multiple sclerosis as a result of certain service in the Persian Gulf War and Post-9/11 Global Operations theaters.

Section 806 of the Committee bill would require VA to contract with the National Academies to conduct a comprehensive epidemiological study to identify any increased risk of developing multiple sclerosis, and other diagnosed neurological diseases, as a result of service in the Southwest Asia theater of operations or in the Post 9/11 Global Operations theaters.

Under current law, veterans gain eligibility for disability benefits by demonstrating a link between their disability and their active military, naval, or air service. To establish such a link, the veteran must show, generally, that his or her disability resulted from an injury or disease that was incurred or aggravated during the time of military service.

In addition to disabilities that can be directly linked to service, certain diagnosed diseases are presumed, as a matter of law, to be service-connected if they manifest under conditions specified by statute. For example, section 1112, title 38, United States Code, provides a presumption for certain chronic diseases if manifested to

a degree of disability of 10 percent or more within one year of separation from service, for certain tropical diseases if manifested to a degree of disability of 10 percent or more, generally, within one year of separation from service, and for active tuberculosis or Hansen's disease if manifested to a degree of disability of 10 percent or more within three years of separation from service.

In 1962, Public Law 87-645 extended the period of time after separation from service that a diagnosis of multiple sclerosis may be presumed to be service-connected from three to seven years for veterans with wartime service. The extension was made in response to the fact that multiple sclerosis often takes many years to manifest in diagnosable symptoms. The course of multiple sclerosis is highly variable and makes studies of etiology and possible mechanisms of treatment challenging. The disease often begins with a relapsing-remitting pattern with episodic exacerbations of neurological dysfunction, which remit partially or completely.

Based on testimony at the Committee's May 9, 2007, hearing and subsequent research and analysis, the Committee has concluded that, despite suggestions that veterans who served in the Persian Gulf War theater of operations exhibit a higher prevalence of multiple sclerosis than the general population, there remains a dearth of scientific or medical justification to explain a direct connection between military service and the contraction of the disease. Thus, rather than eliminate the current presumptive period, the Committee decided that further scientific research is necessary before additional reforms, if any, are made. In particular, the Committee believes the connection between multiple sclerosis and service during the Persian Gulf War and Post-9/11 Global Operations periods merits further investigation.

Section 806 of the Committee bill would require VA to enter into a contract with IOM to conduct a comprehensive epidemiological study to identify any increased risk of developing multiple sclerosis, and other diagnosed neurological diseases, as a result of service in the Southwest Asia theater of operations or in the Post 9/11 Global Operations theaters. The Southwest Asia theater of operations is defined in section 3.3317 of title 38, Code of Federal Regulations. The Post 9/11 Global Operations theater is defined as Afghanistan, Iraq, or any other theater for which the Global War on Terrorism Expeditionary Medal is awarded for service.

The mandated study would examine the incidence and prevalence of diagnosed neurological diseases, including multiple sclerosis, Parkinson's disease, amyotrophic lateral sclerosis, and brain cancers, as well as central nervous abnormalities, in members of the Armed Forces who served during the Persian Gulf War period and Post-9/11 Global Operations period. The study would also collect information on possible risk factors, such as exposure to pesticides and other toxic substances. IOM would be required to submit a final report to VA and the appropriate committees of Congress by December 31, 2010.

Sec. 807. Comptroller General report on adequacy of dependency and indemnity compensation to maintain survivors of veterans who die from service-connected disabilities.

Section 807 of the Committee bill, which is drawn from S. 1326, would require the Comptroller General to report on the adequacy

of DIC to maintain survivors of veterans who die from service-connected disabilities.

DIC is a benefit that is paid to survivors of certain veterans. To be eligible, the veteran's death must have resulted from: a disease or injury incurred or aggravated in the line of duty or active duty for training; an injury incurred or aggravated in the line of duty while on inactive duty training; or, a service-connected disability or a condition directly related to a service-connected disability.

DIC may also be paid to survivors of veterans who were totally disabled from service-connected conditions at the time of death, even if the death was not caused by their service-connected disabilities. To be eligible for the benefit under this circumstance, the veteran must have been rated totally disabled for the ten years preceding death; rated totally disabled from the date of military discharge and for at least five years immediately preceding death; or, a former prisoner of war who died after September 30, 1999, and who was rated totally disabled for at least one year immediately preceding death.

Surviving spouses of veterans who died on or after January 1, 1993, receive a basic rate, plus additional amounts for dependent children. Surviving spouses of veterans who died prior to January 1, 1993, receive an amount based on the deceased veteran's military pay grade.

Section 807 would require the Comptroller General to submit, to the Committees on Veterans' Affairs of the Senate and House of Representatives, a report regarding the adequacy of the benefits to survivors in replacing the deceased veteran's income. The Comptroller General would be required to include a description of the current system of payment of DIC to survivors, including a statement of DIC rates; an assessment of the adequacy of DIC in replacing a deceased veteran's income; and any recommendations that the Comptroller General considers appropriate in order to improve or enhance the effects of DIC in replacing the deceased veteran's income. The Comptroller General would be required to submit the report not later than ten months after the date of enactment of the provision.

COMMITTEE BILL COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the CBO, estimates that enactment of the Committee bill would, relative to current law, increase discretionary spending by \$178 million in 2008 and by \$1 billion over the 2008–2012 period, assuming appropriation of the necessary amounts. The Committee bill would decrease direct spending by \$4 million in 2008, and by \$44 million over the 2008–2012 period. Enactment of the Committee bill would not affect receipts, and would not affect the budget of state, local or tribal governments.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 28, 2007.

Hon. DANIEL K. AKAKA,
Chairman,
Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed revised cost estimate for S. 1315, the Veterans' Benefits Enhancement Act of 2007. This estimate supersedes the initial cost estimate transmitted on August 23, 2007.

This revised estimate corrects CBO's summary of current law regarding veterans' pension benefits. The estimated budgetary impact of enacting S. 1315 is unchanged.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne Wright, who can be reached at 226-2840.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure

cc: Honorable Larry E. Craig, Ranking Member.

S. 1315, Veterans' Benefits Enhancement Act of 2007

Summary: S. 1315 would affect several veterans programs, including disability compensation, pension, burial, life insurance, and readjustment benefits. CBO estimates that implementing this legislation would incur discretionary costs of \$178 million in 2008 and \$1 billion over the 2008-2012 period, assuming appropriations of the necessary amounts. Also, the bill contains provisions that would both increase and decrease direct spending for veterans benefits. CBO estimates that enacting S. 1315 would decrease direct spending by \$4 million in 2008, \$44 million over the 2008-2012 period, and \$56 million over the 2008-2017 period. Enacting the bill would have no effect on federal revenues.

S. 1315 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs to state, local, or tribal governments would be incurred voluntarily.

S. 1315 contains a private-sector mandate, as defined in UMRA, because it would require cellular telephone contractors to allow certain servicemembers to terminate or suspend cellular telephone service contracts without termination or reactivation fees. CBO estimates that the annual cost of the mandate would probably be below the threshold established in UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1315 is summarized in Table 1. The costs of this legislation fall within budget function 700 (veterans benefits and services).

Table 1. Estimated Budgetary Impact of S. 1315

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	178	191	205	215	225
Estimated Outlays	178	191	205	215	225
CHANGES IN DIRECT SPENDING ^a					
Estimated Budget Authority	-4	25	-16	-29	-22
Estimated Outlays	-4	25	-16	-29	-22

^a In addition to the direct spending effects shown here, enacting S. 1315 would have additional effects on direct spending after 2012 (see Table 3). The estimated net changes in direct spending sum to -\$44 million over the 2008–2012 period and -\$56 million over the 2008–2017 period.

Basis of estimate: For this estimate, CBO assumes that S. 1315 will be enacted near the start of fiscal year 2008 and that the necessary funds for implementing the bill will be provided each year.

Spending subject to appropriation

S. 1315 contains several provisions that would affect benefits provided by the Department of Veterans Affairs (VA), including increasing veterans burial benefits, expanding benefits for Filipino veterans, and increasing benefits for severely disabled veterans. CBO estimates that implementing S. 1315 would result in discretionary outlays of \$178 million in 2008 and \$1 billion over the 2008–2012 period, subject to appropriation of the necessary amounts (see Table 2).

Supplemental Funeral and Burial Expenses. Under current law, VA pays funeral expenses up to \$300 for deceased veterans who had been receiving compensation or pension benefits and for whom no next of kin can be located. VA also pays up to \$2,000 for burial expenses to the survivors of veterans who die as a result of their service-connected disability. Section 701 would increase the maximum payments for funeral and burial expenses to \$1,200 and \$4,100, respectively, and would increase these amounts annually by a cost-of-living adjustment.

Table 2. Components of Discretionary Spending Under S. 1315

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ^a					
Supplemental Funeral and Burial Expenses:					
Estimated Authorization Level	112	117	125	132	140
Estimated Outlays	112	117	125	132	140
Supplemental Plot Allowance:					
Estimated Authorization Level	32	32	35	37	39
Estimated Outlays	32	32	35	37	39
Supplemental Automobile Grants for Disabled Veterans:					
Estimated Authorization Level	19	20	21	22	23
Estimated Outlays	19	20	21	22	23
Medical Care for Filipino Veterans:					
Estimated Authorization Level	5	11	13	13	13
Estimated Outlays	5	11	13	13	13
Supplemental Specially Adapted Housing Benefits:					
Estimated Authorization Level	7	8	9	9	10
Estimated Outlays	7	8	9	9	10
Reports:					
Estimated Authorization Level	2	2	1	1	*
Estimated Outlays	2	2	1	1	*

Table 2. Components of Discretionary Spending Under S. 1315—Continued

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
Assets of Air Force Health Study:					
Estimated Authorization Level	1	1	1	1	0
Estimated Outlays	1	1	1	1	0
Total					
Estimated Authorization Level		191	205	215	225
Estimated Outlays	178	191	205	215	225

Note: * = less than \$500,000.

^a Components may not add up to totals because of rounding.

Based on information from VA regarding veteran mortality, CBO expects about 89,000 grants to be made for funeral expenses in 2008 increasing to about 96,600 by 2012. For service-connected burial expenses, CBO expects about 15,000 grants to be made in 2008 increasing to about 17,500 in 2012. CBO estimates that implementing section 701 would cost \$112 million in 2008 and \$626 million over the 2008–2012 period, assuming appropriation of the necessary amounts.

Supplemental Plot Allowance. Under current law, VA pays a \$300 plot allowance for veterans who died in a VA facility or who are to be buried in a state or private cemetery. Section 702 would increase the plot allowance to \$745 and would adjust the payment annually by a cost-of-living index. Based on information from VA on veterans mortality rates, CBO expects about 72,000 grants to be made for plot allowances in 2008, increasing to about 77,000 grants by 2012. CBO estimates that implementing section 702 would increase the cost of this program by \$32 million in 2008 and by \$176 million over the 2008–2012 period, assuming appropriation of the necessary amounts.

Supplemental Automobile Grants for Disabled Veterans. The Department of Veterans Affairs currently provides grants of \$11,000 for the purchase of an automobile or other vehicle to seriously disabled veterans who, as the result of a service-connected injury or disease, have lost the use of one or both hands (or feet) or have suffered a severe vision impairment. While these grants are mandatory payments made from the Readjustment Benefits account, section 802 would require VA to provide grant recipients an additional payment, subject to the availability of appropriations, such that the grant and supplemental payment total \$22,484 in 2007 (more than doubling the existing benefit) and would increase that amount annually by a cost-of-living adjustment. Based on current usage rates and assuming appropriation of the necessary amounts, CBO estimates that implementing section 802 would cost about \$17 million in 2008 and \$96 million over the 2008–2012 period.

Medical Care for Filipino Veterans. Section 401 would qualify Filipino veterans for VA medical care if they served in the organized military forces of the Commonwealth of the Philippines or the Philippine Scouts while they were in the service of the U.S. Armed Forces between July 26, 1941, and July 1, 1946. Based on information from VA, CBO estimates that there will be about 30,000 eligible veterans living in the Philippines in 2008, and that their numbers will decline to about 24,000 by 2012. In 2006, the VA's average annual cost of providing medical care to veterans in

the Philippines was about \$1,700 per person and, after accounting for inflation, CBO estimates that average would increase to about \$2,100 per person by 2012.

According to VA, about 25 percent of all eligible veterans use VA medical care. Assuming a three-year phase-in of new users, CBO estimates that implementing section 401 would increase VA health care costs by \$5 million in 2008 and by \$55 million over the 2008–2012 period, subject to appropriation of the necessary amounts.

Supplemental Specially Adapted Housing (SAH) Benefits. VA currently administers two grant programs to assist severely disabled veterans in acquiring housing that is adapted to their disabilities or in modifying their existing housing accordingly. While those grants are mandatory payments made from the Readjustment Benefits account, section 205 would require VA to provide grant recipients with an additional payment, subject to the availability of appropriations. Under current law, veterans who are classified by VA as totally disabled and who have certain mobility limitations are entitled to receive grants of up to \$50,000 toward the acquisition of suitable housing. Totally disabled veterans who are blind or have lost the use of their hands are entitled to receive grants of up to \$10,000 to adapt their residences to accommodate their disabilities.

Section 205 would require VA to provide an additional payment such that the total received by any individual would be a subject to a maximum of \$60,000 and \$12,000, respectively (a 20 percent increase). Based on current usage rates and assuming appropriation of the necessary amounts, CBO estimates that implementing section 205 would cost \$7 million in 2008 and \$43 million over the 2008–2012 period.

Reports. S. 1315 would require VA to prepare or to enter into contracts for the completion of several reports. The topics would include: specially adapted housing for disabled individuals, specially adapted housing for individuals residing in homes owned by other family members on a permanent basis, a modification of a special unemployment report for veterans of post-9/11 global operations, annual workload reports for the Court of Appeals of Veterans Claims (CAVC), expansion of facilities for the CAVC, and an Institute of Medicine study on the risk of developing multiple sclerosis as a result of service in the Persian Gulf or post-9/11 global operations. CBO estimates that completing the required reports would cost \$2 million in 2008 and \$6 million over the 2008–2012 period, subject to the availability of appropriated funds.

Assets of Air Force Health Study. Section 805 would authorize the appropriation of \$1.5 million for the 2008–2011 period to ensure that the assets transferred to the Medical Follow-Up Agency from the Air Force Health Study are maintained, managed, and made available as a resource for future research for promoting healthy veterans.

Recall of Retired Judges for CAVC. Section 501 would modify the way that judges who are eligible to be recalled after retirement are paid upon recall to the Court of Appeal for Veterans Claims work. Under current law, recall-eligible, retired judges who return to the bench are paid at the same rate as a judge of the court. Under section 501, judges appointed to the court after the date of enactment of S. 1315 who opt to be available for recall would be paid at their retirement-pay rate (with cost-of-living increases) upon return to

the bench. Because very few judges are recalled, CBO estimates that section 501 would have an insignificant impact on discretionary costs.

Direct Spending

S. 1315 contains provisions that would both increase and decrease direct spending. CBO estimates that enacting S. 1315 would decrease net direct spending by \$4 million in 2008, by \$44 million over the 2008–2012 period, and by \$56 million over the 2008–2017 period (see Table 3).

Special Monthly Pension (SMP). VA provides pension benefits for low-income, totally disabled, war veterans whose disabilities are unrelated to their service. Eligible veterans who have more than one disability may receive a higher payment in the form of a SMP at either the aid and attendance (A&A) level or the lower housebound level. Those whose second disability is rated at 100 percent are eligible to receive the A&A SMP; those whose second disability is rated at 60 percent to 90 percent are eligible for the housebound SMP.

As of 2001, low-income war veterans over age 65 are eligible to receive the basic pension benefit without a determination of total disability. Until a recent court holding, however, they had to meet the same requirements as younger veterans to receive SMPs.¹ Veterans over age 65 were required to have two disabilities rated at 100 percent each, or one disability rated at 100 percent and one rated at 60 percent or greater to receive the A&A or housebound SMPs, respectively. The Court of Appeals for Veterans Claims found that otherwise eligible veterans over age 65 did not need the initial disability rating of 100 percent, significantly expanding the number of veterans who are eligible to receive the more costly SMP. Pursuant to that holding, VA has recently begun to pay the A&A SMP to veterans over age 65 who have one disability rated at 100 percent and to pay the housebound SMP to veterans over 65 with a single disability rated at 60 percent to 90 percent.

Table 3. Components of Direct Spending Under S. 1315

	Outlays in millions of dollars, by fiscal year—											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008–2012	2008–2017
CHANGES IN DIRECT SPENDING ^a												
Special Monthly Pension	-63	-90	-112	-111	-109	-105	-101	-96	-91	-87	-485	-965
Expansion of Benefits for Filipino Veterans	24	50	46	42	37	33	30	27	24	21	198	332
Service-Connected Term Life Insurance	3	10	17	23	30	36	42	49	55	61	83	326
State Approving Agencies	6	6	6	6	6	6	6	6	6	6	30	60
Enhanced Veterans Mortgage Life Insurance	3	3	3	3	6	6	6	7	7	7	18	51
Expansion of Retroactive Benefits for T-SGLI	5	24	14	2	2	0	0	0	0	0	47	47
Extension of Increased Job Training Benefits	12	15	4	*	*	*	*	*	*	*	31	31
Supplemental S-DVI	2	2	3	3	3	2	2	3	3	3	13	26
Specialty Adapted Housing Grants for Individuals with Severe Burns	2	2	2	2	1	*	*	*	*	*	9	11

¹ *Robert A. Hartness v. R. James Nicholson*, VA 20 Vet. App. 216 (2006).

Table 3. Components of Direct Spending Under S. 1315—Continued

	Outlays in millions of dollars, by fiscal year—											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008–2012	2008–2017
Automobiles and Adaptive Equipment for Individuals with Severe Burns	2	2	2	1	1	1	1	1	1	1	8	11
COLA for Surviving Spouses ..	*	*	*	1	1	1	1	2	2	2	1	9
Consideration of Dominant Hand as Qualifying Loss to T-SGLI	1	1	*	*	*	*	*	*	*	*	3	5
Total	-4	25	-16	-29	-22	-21	-13	-2	6	15	-44	-56

Notes: T-SGLI = Traumatic Servicemembers Group Life Insurance; S-DVI Supplemental Service-Disabled Insurance.

* = less than \$500,000.

^a Components may not add up to totals because of rounding.

Section 603 would change the eligibility requirements for SMPs to those in force before the court ruling, reducing the number of veterans eligible for SMP and thereby reducing the cost of the pension program. Based on data from VA, CBO estimates that, over the next three years, of the 20,570 veterans over age 65 who are receiving the basic pension without a requirement of disability, 75 percent—or 15,400—will apply for and receive a SMP. Based on disability data from VA, CBO estimates that about 12,800 of those qualifying pensioners will be found eligible for the A&A SMP and that the remaining 2,600 will receive the housebound SMP.

In addition, CBO estimates that each year about 3,000 new pension recipients will qualify for the SMPs because of the court ruling and that half of them will be paid at the A&A rate and that half will receive the housebound rate. Thus, CBO estimates that under current law a total of 10,350 additional veterans will receive SMPs in 2008, and, using normal mortality rates for that population and adding in each year's cohort of new pensioners, CBO estimates that by 2017, an additional 13,700 pensioners will receive SMPs because of the court ruling.

The maximum annual pension rate for a veteran with no dependents is \$10,929. Similar rates for A&A and housebound SMPs are \$18,234 and \$13,356, respectively. After adjusting for cost-of-living increases, by 2017 the difference between the maximum annual pension rate and both the A&A and housebound SMP rates would be about \$9,000 and \$3,000, respectively. Using those increases in benefit levels and the populations specified above, CBO estimates that the court ruling will increase direct spending on veterans pensions by \$485 million over the 2008–2012 period and \$965 million over the 2008–2017 period. Enacting section 603 would undo that increase expected under current law, resulting in an equal amount of savings.

Expansion of Benefits for Filipino Veterans. Section 401 would qualify Filipino veterans for expanded VA benefits if they served in the organized military forces of the Commonwealth of the Philippines and the Philippine Scouts while they were in the service of the U.S. Armed Forces between July 26, 1941, and July 1, 1946. Enacting this provision would increase direct spending for disability compensation, pensions, and readjustment benefits. In total, CBO estimates that enacting section 401 would increase direct spending by \$24 million in 2008, \$198 million over the 2008–2012

period, and \$332 million over the 2008–2017 period. (Section 401 also would increase the number of Filipino veterans who are eligible for VA medical care. The cost of providing that care is discussed above under “Spending Subject to Appropriation.”)

Compensation. While Filipino veterans residing in the United States are eligible for full disability compensation, Filipino veterans residing in the Philippines receive compensation at one-half of the full rate. Section 401 would grant Filipino veterans residing in the Philippines full disability compensation, effective as of January 1, 2008.

About 3,000 Filipino veterans received reduced disability compensation from VA in 2006. Using VA mortality rates for compensation recipients, CBO estimates that under section 401 about 2,700 Filipino veterans would receive an increase in compensation in 2008, decreasing to about 1,300 by 2017. CBO assumes that all veterans who are eligible for compensation are currently receiving a disability payment, and that there would be no new accessions to the disability compensation rolls. Based on information from VA, CBO estimates that in 2008, the average disability compensation payment will be about \$9,600—resulting in an increase of \$4,800 for Filipino veterans. After adjusting for cost-of-living increases, CBO estimates that enacting section 401 would increase direct spending for disability compensation by \$59 million over the 2008–2012 period and \$101 million over the 2008–2017 period.

Pensions. Under current law, Filipino veterans are not eligible for disability pensions, and their surviving spouses are not eligible for a death pension. Section 401 would make both Filipino veterans and their surviving spouses eligible for those pensions at specified rates. Under section 401, single veterans would be eligible for an annual payment of \$3,600 and married veterans would be eligible for \$4,500. The annual payment for surviving spouses would be \$2,400. All payments would be increased annually by a cost-of-living adjustment. Veterans applying on or after May 1, 2008, would be eligible.

To become eligible for a disability pension, a veteran must have an income below a certain threshold, have served during a period of war, and have a permanent and total non-service-connected disability. Veterans over age 65 are presumed totally disabled for pension purposes. The income threshold for veterans without any dependents is about \$11,000. According to the Central Intelligence Agency Factbook, the average annual income in the Philippines is about \$5,000 as of 2006.

In 2001, VA issued a report on Filipino veterans. As of September 2000, about 41,800 Filipino veterans resided in the Philippines and were not receiving disability compensation. Based on the low average annual income and the income threshold for disability pensions, CBO expects that under this provision, 80 percent of Filipino veterans would apply for and be granted a pension. Based on information from the Department of Defense (DOD), CBO estimates that 30 percent of Filipino veterans are married. Using VA mortality rates for pensioners, CBO estimates that under section 401 about 14,200 Filipino veterans would be granted a disability pension in 2008, of which about 1,500 would survive to 2017.

Based on information from VA and DOD, CBO estimates that about 120 surviving spouses would apply for and be granted a pension in 2008. After accounting for accessions to the dependency and indemnity compensation (DIC) rolls over the 2008–2017 period, CBO estimates that about 2,900 surviving spouses would receive such pensions by 2017.

After accounting for cost-of-living adjustments, CBO estimates that enacting section 401 would increase outlays for pensions by \$133 million over the 2008–2012 period and \$221 million over the 2008–2012 period.

Readjustment Benefits. Section 401 would also make some Filipino veterans eligible for certain readjustment benefits, including dependent education, specially adapted housing grants, and automotive and adaptive equipment. Based on information from VA on the Filipino veteran and survivor population, mortality rates, and usage rates, CBO estimates that enacting section 401 would increase direct spending for readjustment benefits by \$7 million over the next five years and by \$11 million over the next 10 years.

Service-Connected Term Life Insurance. Section 101 would create a new life insurance program for veterans under age 65 with a service-connected disability. Eligible veterans would be able to obtain up to a maximum of \$50,000 of insurance in increments of \$10,000. As participating veterans reached the age of 70, the insurance would be reduced to 20 percent of its original value. Veterans would pay premiums for this insurance program as determined by VA. However, veterans aged 70 or older, or those who have a permanent and total service-connected disability would not be required to pay premiums. The premiums would not cover the full costs of the program.

Veterans would be required to apply for this term life insurance program within two years of being notified of having a service-connected disability or within ten years of being separated from the Armed Forces, whichever is earlier. Also, any veteran who is currently insured under the Service-Disabled Veterans Insurance program would be allowed to exchange that insurance for the new term life insurance during the period of June 1, 2008, to May 31, 2009.

Based on VA's actuarial projections of future policy holders, premium payments, and death claims, CBO expects about 9,800 veterans would wish to obtain policies in 2008, increasing to about 82,000 in 2017. Therefore, CBO estimates that enacting section 101 would increase direct spending by \$83 million over the 2008–2012 period and \$326 million over the 2008–2017 period.

State Approving Agencies. VA is currently authorized to reimburse the state approving agencies from amounts available for the payment of readjustment benefits. The state approving agencies provide verification that various educational institutions are qualified to provide courses of education so that eligible veterans, survivors, and dependents may receive veterans education benefits while attending those institutions. Section 302 would increase the amount of such reimbursements that could be provided from \$13 million to \$19 million per year. CBO estimates that enacting this provision would increase direct spending for veterans readjustment benefits by \$30 million over the 2008–2012 period and by \$60 million over the 2008–2017 period.

Enhanced Veterans' Mortgage Life Insurance (VMLI). VMLI is insurance coverage intended to pay off or make payments on a veteran's home mortgage in the event of the veteran's death. VMLI is restricted to those eligible veterans who receive grants for specially adapted housing and it ceases once a veteran reaches age 70. Under current law, the maximum amount of VMLI is \$90,000. Section 108 would increase the amount of VMLI coverage from \$90,000 to \$150,000 through December 31, 2011, and further increase it to \$200,000 on January 1, 2012.

Based on VA's actuarial projections of current and future policy holders, premium payments, and death claims, CBO expects about 2,300 policyholders to take advantage of the increased coverage in 2008, decreasing to about 1,900 by 2017. Based on the current cost of the program, CBO estimates that enacting section 108 would increase direct spending by \$18 million over the 2008–2012 period and \$51 million over the 2008–2017 period.

Expansion of Retroactive Benefits for Traumatic Servicemembers Group Life Insurance (T-SGLI). VA began offering T-SGLI in December 2005. This program provides a payment to eligible servicemembers who suffer a traumatic injury including, but not limited to, the loss of a hand or foot. When the program was established, it provided retroactive coverage only to veterans who suffered a traumatic injury as a result of their service in Operation Enduring Freedom or Operation Iraqi Freedom (OEF/OIF). Section 105 would extend that retroactive benefit to all veterans who suffered a traumatic injury resulting in a qualifying loss during the period of October 7, 2001, to November 30, 2005.

CBO assumes that retroactive claims for non-OEF/OIF traumatic injuries will be similar to non-OEF/OIF claims made since the beginning of the program. Between December 2005 and September 2006, 390 veterans made nonretroactive T-SGLI claims for traumatic injuries. Of that number, about 22 percent were for non-war-zone injuries. Based on claims made in the first year of the program, CBO expects that 2,500 war-related claims will be made for the period of October 7, 2001, to November 30, 2005. Therefore, CBO estimates that under section 104 an additional 700 non-war related claims would be made. According to VA, the average size of a non-war-zone claim for T-SGLI was \$68,700. Therefore, CBO estimates that enacting section 105 will increase direct spending by \$5 million in 2008 and \$47 million over the 2008–2017 period.

Extension of Increased Job Training Benefits. Participants in apprenticeship and on-the-job-training programs usually receive wages that increase as the trainees progress through their training program. Consequently, veterans education programs provide benefits for job training that offer higher payments at the start of a program and reduced payments in the program's later stages. Since October 1, 2005, veterans in apprenticeship or on-the-job-training programs have received 85 percent of their program's full-time benefit during their first six months of job training, 65 percent of the full-time benefit for the second six months, and 45 percent of the full benefit thereafter—temporarily increased from statutory limits of 75, 55, and 35 percent, respectively. Dependents in the Survivors' and Dependents' Educational Assistance Program (SDEAP) have also received elevated monthly job training benefits

since that time. Those increases will expire on December 31, 2007, and benefits will return to the previous levels.

Section 305 would delay such reinstatement of the lower benefits for two years, from January 1, 2008, until January 1, 2010. Based on current levels of spending for these programs, CBO estimates that enacting this section would increase direct spending for veterans education benefits by \$12 million in 2008 and \$31 million over the 2008–2017 period.

Supplemental Service-Disabled Insurance (S–DVI). Section 104 would increase the amount of supplemental S–DVI insurance coverage available from \$20,000 to \$30,000. This provision would be effective as of January 1, 2008.

S–DVI is a life insurance program for veterans with service-related disabilities. They must apply for S–DVI within two years of notification that a service connection has been established for a disability. Supplemental S–DVI is available to current S–DVI policyholders who qualify for a waiver of premiums because of a total disability that began after the insured’s application for insurance, while the insured was paying premiums for S–DVI, and before the insured’s 65 birthday.

Based on VA’s actuarial projections of current and future policy holders, premium payments, and death claims, CBO expects about 19,000 policyholders would take advantage of the increased coverage in 2008, increasing to about 23,400 by 2017. Therefore, CBO estimates that enacting section 104 would increase direct spending by \$13 million over the 2008–2012 period and \$26 million over the 2008–2017 period.

Specially Adapted Housing Grants for Individuals with Severe Burns. VA currently administers two grant programs to assist severely disabled veterans in acquiring housing that is adapted to their disabilities or modifying their existing housing. Under current law, veterans who are classified by VA as totally disabled and who have certain mobility limitations are entitled to receive grants of up to \$50,000 toward the acquisition of suitable housing. Totally disabled veterans who are blind or have lost the use of their hands are entitled to receive grants of up to \$10,000 to adapt their residences to accommodate their disabilities. Section 203 would allow totally disabled individuals with severe burn injuries to be eligible for both grants.

Based on information from the services, CBO estimates that under section 203 nearly 100 existing veterans would newly qualify for such housing grants immediately, and that an additional 25 veterans would become eligible for housing adaptation grants in 2008. Assuming this rate of eligibility would change together with projections of wartime deployments, CBO estimates that under section 203 nearly 250 individuals would become newly eligible for housing grants over the 2008–2017 period, increasing direct spending by \$9 million over the 2008–2012 period and \$11 million over the 2008–2017 period.

Automobiles and Adaptive Equipment Grants for Individuals with Severe Burns. Seriously disabled individuals who, as the result of a service-connected injury or disease, have lost the use of one or both hands (or feet) or have suffered a severe vision impairment are eligible to receive a grant of \$11,000 to purchase an automobile or other vehicle. Individuals who receive automobile grants

are also entitled to receive the necessary adaptive equipment to enable them to safely operate their vehicles, and to have that equipment repaired or replaced as necessary. Section 801 would expand eligibility for such grants to include totally disabled individuals with severe burn injuries.

Based on the projected population described above (in the section on SAH for individuals with severe burns), CBO estimates that enacting section 801 would result in VA awarding automobile and adaptive equipment grants to an additional 250 individuals over the 2008–2017 period. Based on current benefit levels in this program, we estimate that the additional automobile grants would increase annual outlays by around \$500,000, and that providing adaptive equipment for those extra vehicles would increase annual outlays by about \$1 million, with projected reductions in the eligible population somewhat offset by repeated grants to update adaptive equipment in the later years. Thus, under section 801, CBO estimates direct spending for automobile grants and adaptive equipment would increase by \$8 million over the 2008–2012 period and \$11 million over the 2008–2017 period.

Cost-of-Living Adjustment for Surviving Spouses. Surviving spouses who are eligible for DIC may receive an extra \$250 a month for up to two years if they have one or more children under the age of 18. Section 602 would increase the \$250 benefit by the same annual cost-of-living adjustment payable to Social Security recipients. CBO estimates that this provision would increase the monthly benefit to \$255 (after rounding down to the next lowest dollar) for 2008 and to \$305 by 2017, relative to current law and CBO's baseline. CBO estimates that enacting section 602 would increase direct spending for veterans compensation by \$1 million over the 2008–2012 period and \$9 million over the 2008–2017 period.

Consideration of Dominant Hand as Qualifying Loss for T-SGLI. Section 106 would allow VA to consider the loss of a dominant hand in determinations of severity of traumatic loss when making payments to servicemembers under the T-SGLI program and would make the payments retroactive to the beginning of the T-SGLI program. As of July 2007, 95 servicemembers have received payments of \$50,000 for the loss of a hand for a total of \$5 million for such losses. CBO estimates that through the end of fiscal year 2007, about 110 claims will have been made for the loss of a hand—this includes war-related claims for injuries incurred as far back as October 7, 2001—and that over the 2008–2017 period, about 25 additional claims per year will be made for the loss of a hand.

Absent information on whether or not claims paid to date under this program represent the loss of a dominant hand, CBO assumes that half of those individuals who have received a payment would return for an increased payment under this provision. Similarly, CBO assumes that half of the new claims for loss of a hand will be for a dominant hand and will be paid at a higher rate. All T-SGLI payments are made in increments of \$25,000, so CBO assumes that the loss of a dominant hand would result in a payment increase of \$25,000. Therefore, CBO estimates that enacting section 106 would increase direct spending by \$3 million over the 2008–2012 period and \$5 million over the 2008–2017 period.

Presumption of Service Connection for Prisoners of War (POWs) with Osteoporosis and Post-Traumatic Stress Disorder (PTSD). Section 601 of the bill would add osteoporosis in POWs with PTSD to the list of disabilities that VA assumes are service-connected for former POWs. Thus, under section 601, former POWs with PTSD who also have osteoporosis would be eligible for an increase in disability compensation. CBO estimates that fewer than 50 veterans might be eligible for a small increase in their disability compensation under this provision. Therefore, CBO estimates that enacting section 601 would increase direct spending by less than \$500,000 over the 2008–2017 period.

Other provisions. The following provisions would have insignificant impact on mandatory spending:

- Section 202 would expand eligibility for all specially adapted housing benefits to include servicemembers on active duty (living either permanently in their own residence or temporarily with a family member) and certain otherwise eligible veterans residing outside the United States.

- Section 204 would extend by just over six months a program providing SAH grants to individuals who reside temporarily with a family member.

- Section 402 would eliminate the requirement that children of certain Filipino veterans of World War II who receive dependents' education benefits from the VA be paid 50 percent of the amount to which they would otherwise be entitled. Though this would double the amount paid to such individuals, CBO estimates that because of the small size of the population involved, any increase in direct spending would be insignificant.

Estimated impact on state, local, and tribal governments: S. 1315 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act. State, local, and tribal governments that participate in the program to provide education benefits to veterans would benefit from funds authorized in the bill. Any costs they might incur to comply with the conditions of this federal assistance would be incurred voluntarily.

Estimated impact on the private sector: Section 606 of S. 1315 would allow servicemembers who receive orders to deploy outside of the continental United States for not less than 90 days to request the termination or suspension of any contract for cellular telephone service entered into by the servicemember before that date. Servicemembers would be protected against any penalties arising from such a termination or suspension of a cellular telephone service contract. This would be a mandate upon the cellular telephone service contractors that would be required to grant the requested relief without imposition of an early contract termination fee or a reactivation fee. Furthermore, the servicemember would not be required to extend a contract as a condition of suspension or otherwise.

Based on historical deployment numbers and average contract termination and reactivation fees, CBO estimates that the costs to cellular telephone service contractors to comply with this mandate would likely be below the threshold established in UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

Previous CBO estimate: On August 21, 2007, CBO transmitted a cost estimate for H.R. 760, the Filipino Veterans Equity Act of 2007, as ordered reported by the House Veterans Affairs Committee on July 18, 2007. Several sections of S. 1315 are similar to sections of H.R. 760, as ordered reported. Differences in the estimated costs reflect differences in the two bills.

On August 23, 2007, CBO transmitted a cost estimate for S. 1315 as ordered reported by the Senate Committee on Veterans' Affairs on June 27, 2007. This revised estimate corrects CBO's summary of current law regarding veterans' pension benefits. The estimated budgetary impact of enacting the bill is unchanged.

Estimate prepared by: Federal Costs: Veterans' Compensation—Dwayne Wright (226–2840); Veterans' Readjustment Benefits—Mike Waters and Sarah Jennings (226–2840); Military Personnel—Matthew Schmit (226–2840).

Impact on state, local, and tribal governments: Lisa Ramirez-Branum (225–3220); Impact on the Private Sector: Victoria Liu (226–2900).

Estimate approved by: Theresa A. Gullo, Chief, State and Local Government Cost Estimates Unit, Budget Analysis Division.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact that would be incurred in carrying out the Committee bill. The Committee finds that the Committee bill would not entail any regulation of individuals or businesses or result in any impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by members of the Committee on Veterans' Affairs at its June 27, 2007, meeting. The Committee, by voice vote, ordered S. 1315 reported favorably to the Senate, subject to amendment.

On that date, the Committee considered the Craig amendment on education and Filipino veterans. The Craig amendment was defeated by a 6 to 8 vote.

Yeas	Senator	Nays
	Mr. Rockefeller	X
	Ms. Murray	X
	Mr. Obama	X
	Mr. Sanders	X
	Mr. Brown	X
	Mr. Webb	X
	Mr. Tester	X
X	Mr. Craig	
X (by proxy)	Mr. Specter	
X (by proxy)	Mr. Burr	
X	Mr. Isakson	
	Mr. Graham	
X (by proxy)	Ms. Hutchison	

Yeas	Senator	Nays
X	Mr. Ensign Mr. Chairman	X
6	TALLY	8

The Committee then considered, en bloc, four amendments offered by Senator Sanders to authorize supplemental funding of certain veterans benefits programs. The Sanders amendments were accepted, en bloc, by a 9 to 5 vote.

Yeas	Senator	Nays
X	Mr. Rockefeller	
X	Ms. Murray	
X (by proxy)	Mr. Obama	
X	Mr. Sanders	
X (by proxy)	Mr. Brown	
X (by proxy)	Mr. Webb	
X	Mr. Tester	
	Mr. Craig	X
	Mr. Specter	X (by proxy)
	Mr. Burr	X (by proxy)
	Mr. Isakson	X
	Mr. Graham	
	Ms. Hutchison	X (by proxy)
X	Mr. Ensign	
X	Mr. Chairman	
9	TALLY	5

The Committee then considered the Ensign amendment to give special consideration to the loss of the dominant hand in determining eligibility for traumatic injury protection under Servicemembers' Group Life Insurance. The Ensign amendment was accepted by a 14 to 0 vote.

Yeas	Senator	Nays
X	Mr. Rockefeller	
X	Ms. Murray	
X (by proxy)	Mr. Obama	
X	Mr. Sanders	
X (by proxy)	Mr. Brown	
X (by proxy)	Mr. Webb	
X	Mr. Tester	
X	Mr. Craig	
X (by proxy)	Mr. Specter	
X (by proxy)	Mr. Burr	
X	Mr. Isakson	
	Mr. Graham	
X (by proxy)	Ms. Hutchison	
X	Mr. Ensign	
X	Mr. Chairman	
14	TALLY	0

AGENCY REPORT

On April 11, 2007, Ronald R. Aument, Deputy Under Secretary for Benefits of the Department of Veterans Affairs, appeared before the Committee at a hearing on S. 57, the proposed "Filipino Veterans Equity Act of 2007," and submitted testimony of the Department's views of the bill. Excerpts from this statement are reprinted below:

STATEMENT RONALD R. AUMENT, DEPUTY UNDER
SECRETARY FOR BENEFITS, U.S. DEPARTMENT OF
VETERANS AFFAIRS

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on S. 57, a bill that would deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Department of Veterans Affairs (VA). VA does not support enactment of the bill.

Regular, or "Old," Philippine Scouts are currently eligible for VA benefits in the same manner as veterans of the U.S. Army. Therefore, the bill would not affect this group. However, S. 57 would extend full eligibility for VA benefits to veterans of the Philippine Commonwealth Army, including those with recognized guerrilla service, and to veterans of the New Philippine Scouts. In my testimony today, I refer only to the groups affected by the proposed bill as "Filipino veterans" and do not refer to Regular Philippine Scouts.

Section 107 of title 38, United States Code, generally limits the VA benefits to which Filipino veterans and their survivors are eligible to certain contracts of National Service Life Insurance, disability compensation, dependency and indemnity compensation (DIC), and monetary burial benefits. Furthermore, unless those veterans or survivors live in the United States and are U.S. citizens or are lawfully admitted for permanent residence in the United States, those veterans or survivors receive their disability compensation or DIC at the rate of fifty cents per U.S. dollar, which is commonly referred to as payment at a "half-dollar rate." Payment of monetary burial benefits at more than the half-dollar rate requires, in addition to the legal residency requirement, that the veteran at the time of death be receiving disability compensation or be entitled to receive a disability pension but for the active-service requirement. Eligibility for burial in a national cemetery and for hospital and nursing home care and medical services is limited to Filipino veterans living here in the United States who are either U.S. citizens or lawful residents. Filipino veterans and their survivors are not eligible for any other VA benefit with the exception of education benefits available under chapter 35 of title 38 to certain children of these veterans.

We do not support the bill because it would disproportionately favor Filipino veterans over U.S. veterans. Mr. Chairman, in 2003 the average annual family income in the Philippines in U.S. dollars was approximately \$2,864. In contrast, in 2006 the maximum annual pension rate for a veteran with no dependent was \$10,929 U.S. dollars per year; the annual rate for a veteran with one dependent was \$14,313; and the annual rate for a surviving spouse

with no dependent was \$7,329. Thus, Filipino veterans and their survivors receiving full-rate VA pensions while living in the Philippines would enjoy a much higher standard of living relative to the general population in the Philippines. At the same time, VA benefits paid to beneficiaries living in the United States, such as U.S. veterans, do not enable those beneficiaries to enjoy a standard of living higher than the general U.S. population. In fact, even when paid at the half-dollar rate, Filipino veterans and their survivors are receiving relatively higher rates of disability compensation, DIC, and burial benefits compared to beneficiaries receiving the full-dollar rate in the United States.

As a direct result of S. 57, VA would have to double the monthly payments currently provided to the more than 7,000 Filipino veterans and their survivors who now receive disability compensation or DIC at the half-dollar rate. In addition, we expect newly eligible veterans or their survivors to apply for pension benefits. Although precise numbers are not available, we have based our cost estimates on an estimate that more than 20,000 Filipino veterans reside outside the United States. We derived this figure by applying mortality rates for World War II veterans to an estimate of the Filipino veteran population that was calculated in 2000. The resulting 20,000 figure is in line with an estimate used by the Congressional Research Service in 2006. Since it is very difficult to develop a firm estimate for the size of this population, we believe that that 20,000 figure is as reliable as we can establish at this date. Based on this figure, we estimate compensation, pension, and DIC costs in the first year will exceed \$491 million. Enactment of S. 57 may also likely require VA to provide to Filipino veterans memorial benefits such as interment, perpetual care of gravesites, government-furnished headstones or markers, and Presidential Memorial Certificates.

S. 57 also would significantly affect VA's health care system. Currently, the VA Outpatient Clinic in Manila, Philippines, provides a wide range of ambulatory care services for U.S. veterans living in the Philippines as well as Compensation-and-Pension examinations for both U.S. and Filipino veterans. The Clinic has an annual operating budget of approximately \$6.3 million and, in FY 2006, served 3,799 U.S. veterans. Under S. 57, all Filipino veterans in the Philippines with VA-adjudicated service-connected disabilities would become eligible for VA health care in the Philippines. As of February 2007, the VA Manila Regional Office provided compensation for service-connected disabilities to 3,441 Philippine Service veterans, of which 2,726 resided in the Philippines. Based on the expected increase in the number of veterans eligible for care and an increase in the number of Compensation-and-Pension examination requests, we estimate an almost 100-percent increase in overall operating costs in the Philippines if the bill is enacted. We estimate a total additional expense of over \$5 million in the first year. Moreover, this cost estimate does not fully account for the expected impact of S. 57. It is expected that the newly eligible Filipino veterans also would require a significant increase in the costs at the Manila Clinic for pharmacy, beneficiary travel, specialty exams, and fee basis costs.

The bill would also impact VA's construction costs in the Philippines. Public Law 106-113 requires the Department of State (State) to locate diplomatic and other U.S. government offices to secure embassy grounds when it builds a new or replaces an existing embassy. State is replacing its embassy in Manila. In December 2006, Secretary Nicholson approved a recommendation to relocate the Manila VA Outpatient Clinic from its current leased site to U.S. Embassy property. State is planning to co-locate the Manila regional office and the Outpatient Clinic on embassy property at its Seafont compound. The facilities will be built and funded through a State major construction appropriation, and the new VA facilities are planned to be completed in 2010. VA will reimburse State for this project through Capital Security Cost-Sharing (CSCS) charges over a period of several years. VA's costs under that program are based on staffing levels. Any additional space and staffing required for this project due to the enactment of S. 57 will significantly increase VA's costs.

Additional health-care costs would have to be paid with existing health-care funds. Filipino veterans now residing outside the United States would be eligible for and could obtain health care in the United States by traveling to the United States to receive it. They would not, as now, have to reside in the United States and become U.S. citizens or permanent residents. We estimate that, if 10 percent of these newly eligible veterans (i.e., approximately 2,000 of the estimated 20,000 population of veterans) obtain health care in the United States, it will cost over \$13 million in the first year.

We estimate additional benefit costs (including medical benefits and memorial benefits) of approximately \$510 million in the first year and more than \$4 billion over ten years. Our cost estimate includes only expenses related to the three most significant monetary benefits, which are disability compensation, pension, and DIC, in our total estimate of benefit costs.

Administrative costs are estimated at \$8.8 million in the first year and \$27 million over ten years. These estimates of administrative costs do not include the CSCS costs or administrative costs related to the provision of health care, and, as with the benefit costs, include administrative costs related to disability compensation, pension, and DIC, and not costs related to the administration of other monetary benefits.

This concludes my statement, Mr. Chairman. I would be happy to entertain any questions you or the other Members of the Committee may have.

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On May 9, 2007, Daniel L. Cooper, Under Secretary for Benefits of the Department of Veterans Affairs, appeared before the Committee at a hearing on pending benefits legislation and submitted testimony on, among other bills, S. 225, S. 643, S. 847, S. 848, S. 1096, S. 1215, S. 1265, among other bills. Excerpts from this statement are reprinted below:

STATEMENT OF HON. DANIEL L. COOPER, UNDER
SECRETARY FOR BENEFITS, U.S. DEPARTMENT OF
VETERANS AFFAIRS

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on several bills of great interest to veterans. I will comment today only on the provisions of the bills that affect the Department of Veterans Affairs (VA).

* * * * *

S. 225

Current law provides to members of the uniformed services who are insured under the Servicemembers' Group Life Insurance program coverage against a traumatic injury sustained on or after December 1, 2005, that results in a qualifying loss. In addition, a member of the uniformed services who sustained a traumatic injury between October 7, 2001, and November 30, 2005, that resulted in a qualifying loss is eligible for coverage if the loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom. S. 225 would eliminate the requirement that the loss be the direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom, thereby increasing the number of individuals who could qualify for traumatic injury coverage for injuries sustained before the general effective date of the coverage.

VA defers to DOD on this bill because that department would be responsible for additional costs associated with this change.

S. 643

Under the National Service Life Insurance program, a veteran with a service-connected disability may be provided life insurance, known as Service Disabled Veterans Insurance (SDVI). If such an insured veteran is totally disabled under specified conditions that qualify him or her for waiver of premiums under current law, he or she is eligible for supplemental insurance of up to \$20,000. S. 643, the "Disabled Veterans Insurance Act of 2007," would increase the amount of available supplemental insurance from \$20,000 to \$40,000.

Subject to Congress' enactment of legislation offsetting the increased costs associated with the enactment of the new authority, VA does not object to S. 643 because increasing the amount of available supplemental SDVI to \$40,000 would address a concern of veterans as reported in an independent study commissioned by Congress, "Program Evaluation of Benefits for Survivors of Veterans with Service-Connected Disabilities." This change would increase the financial security of disabled veterans by affording them the opportunity to purchase additional life insurance coverage otherwise not available to them. The costs that would result from enactment would depend on whether an open season would be provided for SDVI policy holders to apply for the additional supplemental insurance. Currently, approximately 75,500 SDVI policy holders qualify for supplemental insurance. Without an open sea-

son, the additional coverage would cost \$4.3 million over five years and \$14.5 million over 10 years with negligible administrative costs. With a one-year open season, the additional coverage would cost \$25.7 million over 5 years and \$50.9 million over 10 years with administrative costs of approximately \$100,000.

* * * * *

S. 847

Current law provides a presumption that certain diseases manifesting in veterans entitled to the presumption were incurred in or aggravated by service, that is, that the diseases are service connected, even if there is no evidence of such diseases in service. A presumption is provided for certain chronic diseases if manifested to a degree of disability of 10-percent or more within one year of separation from service, for certain tropical diseases if manifested to a degree of disability of 10-percent or more (generally) within one year of separation from service, for active tuberculosis or Hansen's disease if manifested to a degree of disability of 10-percent or more within three years of separation from service, and for multiple sclerosis if manifested to a degree of disability of 10-percent or more within seven years of separation from service. S. 847 would eliminate the requirement that the manifestation of multiple sclerosis occur within seven years of separation from service to trigger the presumption.

VA does not support enactment of this bill. First, the current presumptive period of seven years is already the most generous one provided under 38 U.S.C. § 1112(a). Second, we are aware of no scientific or medical justification for presuming multiple sclerosis to be service connected, no matter how long after service it first manifests, in light of the medical literature indicating that there is genetic susceptibility to this disease of unknown cause. Even if a veteran cannot qualify for the current presumption, service connection is not precluded under current law if the veteran can establish that his current multiple sclerosis is in fact related to his or her service. Further liberalization would appear to undermine the purpose of providing compensation for disabilities incurred in or aggravated by active service.

VA estimates that the benefit costs of this bill if enacted would be \$185.5 million in the first year and \$4.9 billion over ten years. We estimate administrative costs to be \$4.7 million for 68 full-time employees the first year and \$85.3 million for 96 full-time employees over 10 years.

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S. 848

Section 2(a) of S. 848, the "Prisoner of War Benefits Act of 2007," would eliminate the requirement that a veteran have been detained or interned as a prisoner of war (POW) for at least 30 days to be entitled to a presumption of service connection for certain diseases currently listed in 38 U.S.C. § 1112(b)(3). Section 2(b) would add two diseases, diabetes (type 2) and osteoporosis, to the list of

diseases in section 1112(b) that may be presumed to be service connected for former POWs.

VA does not support elimination of the 30-day minimum internment requirement because it is not reasonable to assume that extreme deprivation of the type that could cause diseases listed in section 1112(b), such as those resulting from nutritional deficiencies, would occur in less than 30 days. Just a few years ago, section 1112(b) limited the presumption of service connection for specified diseases associated with the POW experience to veterans who were former POWs and were detained or interned for not less than 30 days. However, section 201 of the Veterans Benefits Act of 2003, Pub. L. No. 108-183, § 201, eliminated the 30-day requirement for psychosis, any anxiety state, dysthymic disorder, organic residuals of frostbite, and post-traumatic osteoarthritis. In implementing that amendment in its regulations, VA noted that the diseases that remained subject to the 30-day requirement, such as diseases associated with malnutrition, are generally incurred over a prolonged period of internment. Interim Final Rule, Presumptions of Service Connection for Diseases Associated with Service Involving Detention or Internment as a Prisoner of War, 69 Fed. Reg. 60,083, 60,088 (2004). Such a requirement is appropriate for certain diseases if the evidence indicates that they are associated only with prolonged captivity, such as with maladies normally resulting from nutritional deprivation. Accordingly, VA does not support elimination of the 30-day minimum internment requirement.

With respect to adding diabetes (type 2) and osteoporosis to the list of diseases that may be presumed to be service connected for former POWs, VA is not aware of any sound scientific or medical evidence of an association between these diseases and internment as a POW. Accordingly, VA does not support section 2(b) of S. 848.

Section 2(c) of S. 848 would authorize VA to establish a presumption of service connection for former POWs for any disease for which VA has determined, based on sound medical and scientific evidence, that “a positive association exists between (i) the experience of being a [POW] and (ii) the occurrence of [the] disease in humans.” Section 2(c) would also require VA to issue certain regulations and, in determining whether a positive association exists, to consider recommendations from the Advisory Committee on Former Prisoners of War and all other available sound medical and scientific information and analyses.

VA does not support the procedure in section 2(c) for establishing presumptive service connection for diseases associated with POW internment because more appropriate and effective regulatory procedures for identifying diseases associated with POW internment already exist. Pursuant to the Secretary’s authority provided by 38 U.S.C. § 501(a) to prescribe all rules and regulations necessary or appropriate to carry out the laws administered by VA, including regulations with respect to the nature and extent of proof and evidence, VA has promulgated regulations, codified at 38 CFR § 1.18, establishing a new procedure for establishing POW presumptions. VA’s establishment of presumptive service connection for heart disease and stroke, which was done under VA’s regulatory procedure, demonstrates that the new procedure is effective.

Section 2(c) of the bill would require VA, within specified periods, to publish a notice or regulations in response to recommendations received from the Advisory Committee on Former Prisoners of War. Under 38 U.S.C. § 541(a)(2), the Committee comprises representatives of former POWs, disabled veterans, and health care professionals. Under current law, VA must regularly consult with the Committee and seek its advice on the compensation, health-care, and rehabilitation needs of former POWs. Not later than July 1 of each odd-numbered year through 2009, the Committee must submit to VA a report recommending, among other things, administrative and legislative action. The procedure outlined in section 2(c) of S. 848 would require VA, within 60 days of receiving a Committee recommendation that a presumption be established for a disease, to determine whether a presumption is warranted. If VA determines that a presumption is warranted, we would have to issue proposed regulations within 60 days following that decision and issue a final rule within 90 days of issuing the proposed rule. If VA determines that a presumption is not warranted, we would have to publish a Federal Register notice explaining the scientific basis for the determination within 60 days of making the determination.

This procedure is similar to the procedure that Congress established for herbicide and Gulf War presumptions under 38 U.S.C. §§ 1116 and 1118, both of which generally concern VA rulemaking following the receipt of a report from the National Academy of Sciences. However, unlike the herbicide and Gulf War procedures, S. 848 would require strict guidelines for rulemaking in response to Committee recommendations, which do not provide a thorough scientific review and analysis upon which to establish presumptions. A determination as to whether a disease should be added to the list of diseases warranting presumptive service connection involves a lengthy process of scientific study. Sixty days is not sufficient to conduct such a process. Under current 38 CFR § 1.18, the Secretary may contract with the appropriate expert body, such as the National Academy of Sciences' Institute of Medicine, for the necessary analysis of current science. We believe this regulation provides a more scientifically sound basis for creation of presumptions than that contemplated by S. 848.

Based on the amendments that would be made by section 2(a) of S. 848, VA estimates that approximately 99 former POWs would be affected by this legislation and would apply for benefits in the first year and 1,102 would apply in the first ten years. Assuming a 100-percent grant rate, we further estimate that benefit costs would be \$808,000 in the first year and \$9.9 million over ten years.

Based on the amendments that would be made by section 2(b) of S. 848, VA estimates that approximately 4,045 former POWs would be affected by this legislation and would apply for benefits in the first year and 44,855 in the first ten years. Assuming a 100-percent grant rate, we further estimate that benefit costs would be \$36.3 million in the first year and \$442.9 million over ten years.

In addition, VA estimates that approximately 2,005 surviving spouses would be affected by the amendments that would be made by section 2(b) of S. 848 and would apply for benefits in the first year and 27,332 would apply in the first ten years. Assuming a

100-percent grant rate, we estimate further benefit costs of \$27.5 million in the first year and \$392.6 million over ten years.

We estimate administrative costs to be \$2.4 million for 29 full-time employees in the first year and \$5.1 million over five years.

Although section 2(c) would allow VA to add and remove presumptive diseases, VA does not anticipate any regulatory changes. Therefore, there are no benefits savings or costs associated with this authority.

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S. 1096

VA's opinion on the various sections of this bill follow. Whenever VA supports or does not object to a particular section of the bill, it is subject to Congress' enactment of legislation offsetting the increased costs associated with the enactment of the new authority.

Section 2 of S. 1096, the "Veterans' Housing Benefits Enhancement Act of 2007," would make certain members of the Armed Forces eligible to receive grants for home improvements and structural alterations (HISA) that are needed for the continuation of treatment or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvement and alterations would be subject to the statutory dollar limits set forth in 38 U.S.C. § 1717(a)(2)(A) and (B). Section 2 would extend eligibility for HISA grants to servicemembers: (1) who the Secretary of Veterans Affairs determines have a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service; (2) who are receiving outpatient medical care, services, or treatment for that disability; and (3) who are likely to be discharged or released from the Armed Forces for that disability, as determined by the Secretary of Veterans Affairs.

These grants would be one-time grants. If a covered servicemember uses the HISA grant for a home located near his or her military duty station, that individual would not qualify for another grant if he or she relocates for any purpose after discharge or release from service. VA has no objection to section 2.

Pursuant to 38 U.S.C. § 2101, VA may provide Specially Adapted Housing (SAH) assistance to eligible veterans and active duty servicemembers who suffer from certain permanent and total service-connected disabilities. Section 3 of this bill would add "severe burn injuries" to the types of specified disabilities and would allow VA to determine what criteria constitute such a burn injury. VA favors enactment of this provision, but points out that as written it would exclude active duty servicemembers as eligible recipients. Therefore, VA recommends that the Committee amend the bill to revise existing section 2101(c) to ensure that otherwise eligible active duty servicemembers are not excluded from this important benefit.

VA also recognizes that many burns, regardless of the severity or extent of the injury, may not be considered "permanent and total" but, nevertheless, may require years of special care and convalescence. As such, VA recommends that section 2101 be amended so that severe burn injuries are excepted from the permanent and total disability requirement for SAH assistance.

VA currently cannot project costs for section 3 because the number of qualifying severely burned servicemembers is unknown. We do know from DOD data (April 2003–April 2005) that burns constitute five percent of all Operation Iraqi Freedom or Operation Enduring Freedom combat-related injuries, with an average total burned body surface area of 22 percent. However, we do not know the extent to which such burn victims would qualify under section 3 of S. 1096.

Section 4 would require VA to report to Congress about existing authorities for SAH assistance for disabled veterans. The report would focus on veterans who have disabilities not already described in 38 U.S.C. § 2101 and would be submitted to the Committees on Veterans' Affairs in the Senate and House of Representatives no later than December 31, 2007. VA does not oppose this provision, but the Committee may prefer to revise subsection (a)(2) of this section by changing the “or” after the semicolon to “and”, to clarify that the Committees would like a report on all items specified. VA also recommends that the Committee clarify whether VA should include in the report data on active duty servicemembers.

Under 38 U.S.C. § 3901(1), VA may provide automobile and adaptive equipment to eligible veterans and active duty servicemembers. Section 5 of S. 1096 would add “severe burn injuries” to the existing list of enumerated qualifying injuries and would require VA to promulgate necessary implementing regulations. VA favors enactment of this provision, subject to Congress' enactment of legislation offsetting the benefits cost of such enactment.

VA currently cannot project costs for section 5 because the number of qualifying severely burned servicemembers is unknown. As indicated above, we do know some information about burn injuries. However, we do not know the extent to which such burn victims would qualify under section 5 of S. 1096. We presume the number would be small and note that the average cost of adaptive equipment is approximately \$4,000.

Section 6 would expand the categories of persons eligible for SAH assistance provided under 38 U.S.C. § 2102A to include certain members of the Armed Forces residing temporarily with family members. Until recently, VA was not authorized to provide either a veteran or an active duty servicemember with SAH assistance if the veteran or active duty servicemember intended to reside temporarily with a family member. This changed, in part, with the enactment of Public Law 109–233, which made veterans eligible for such assistance. Yet, Public Law 109–233 did not include active duty servicemembers as eligible recipients. VA supports the objective of this section, which is to grant similar assistance to active duty servicemembers. However, VA cannot support this section as currently drafted because it would create a definitional conflict in the statute that could potentially create different classes of active duty servicemembers eligible for SAH assistance. Section 6 also would require VA to report on assistance for disabled veterans and members of the Armed Forces who reside in housing owned by a family member on a permanent basis. The report would need to be submitted to the Committees on Veterans Affairs in the Senate and

House of Representatives no later than December 31, 2007. VA is not opposed to this provision.

S. 1215

Section 1 of S. 1215 would authorize reimbursement from VA's readjustment benefits account to state approving agencies (SAAs) for certain expenses incurred in the administration of VA education benefit programs, not to exceed \$19 million in any year. The current funding amount is \$19 million for Fiscal Year 2007. However, that amount would revert to \$13 million in Fiscal Year 2008 and subsequent fiscal years without legislative intervention.

VA, consistent with a recent Government Accountability Office recommendation, is taking steps to coordinate its approval activities with other agencies and is considering ways to streamline the approval process. Regardless of any such activities, we anticipate that funding at the reduced level would cause SAAs to reduce staffing proportionately, severely curtail travel and outreach activities, and perform fewer approval/supervisory duties under their VA contracts. Some SAAs might decline to contract with VA altogether, requiring that VA employees assume their duties.

We have been asked to disregard section 2 of this bill.

Section 3 of S. 1215 would permit DOL to waive the current requirement that state Veterans' Employment and Training directors be residents of the state in which they serve for at least two years prior to their appointment if the waiver is in the public interest. VA defers to the DOL on this portion of the bill since it is within that Department's subject matter jurisdiction.

Section 4 of S. 1215 would modify the requirements for the biennial study by DOL of unemployment among certain veterans to include those who served during and after the Global War on Terror. Studies of these groups would be completed in place of the associated studies for Vietnam era veterans and in addition to those of the other veteran populations also identified for the study. VA also defers to DOL on this portion of the bill since it is within that Department's subject matter jurisdiction.

Section 5 would temporarily continue the 10-percentage-point increase (authorized under section 103 of Public Law 108-454; 118 Stat. 3600) of the monthly educational assistance allowance payable for an individual pursuing apprenticeship or other on-job training at the full-time program rate under the Montgomery GI Bill or Active Duty and Selected Reserve programs (chapter 30 of title 38 and chapter 1606 of title 10, United States Code, respectively) and the chapter 32 Post-Vietnam Era Veterans' Educational Assistance program. It would also continue the increase in the educational assistance allowance for such training under chapter 35 of title 38, United States Code (currently, for the first six months of training, \$676; for the second six months of training, \$527; and for the third six months of training, \$380). This amendment would be effective for months beginning on or after January 1, 2008, and before January 1, 2010.

If enacted, VA estimates S. 1215 would cost \$6 million in Fiscal Year 2008, approximately \$44 million for the first five years and \$740 million over the 10-year period from Fiscal Years 2008 through 2017.

Subject to Congress' enactment of legislation offsetting the increased benefits costs of S. 1215, VA has no objection to the enactment of this bill.

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S. 1265

Current law provides eligibility for mortgage life insurance to certain disabled veterans who have been granted assistance in obtaining SAH. S. 1265 would extend this eligibility to members of the Armed Forces who meet the same eligibility criteria.

Subject to Congress' enactment of legislation offsetting the increased costs associated with the enactment of the new authority, VA supports the enactment of this bill because it would correct an oversight made when eligibility for SAH was extended to members of the Armed Forces. Mortgage life insurance was available for veterans receiving SAH assistance but was not available to the newly eligible Armed Forces members. This bill would rectify that disparity. VA estimates that enactment of this bill would cost \$431,170 over five years.

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VA does not have comments on the other bills included on the agenda for today's hearing because it did not receive them in time to develop and clear views and estimate costs.

This concludes my statement, Mr. Chairman. I would be happy now to entertain any questions you or the other members of the Committee may have.

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SUPPLEMENTAL VIEWS OF MINORITY MEMBER
HON. LARRY E. CRAIG

I want to commend Chairman Akaka and all of our Committee Members for advancing a bill that contains many valuable provisions. S. 1315 as amended, the “Veterans’ Benefits Enhancement Act of 2007” (hereinafter, “S. 1315”), has as its predominant focus enhancing benefits and services for America’s returning combat veterans and veterans with service-connected disabilities. In particular, I am very pleased that S. 1315 includes provisions that directly impact benefits provided for today’s active duty servicemembers fighting the War on Terror.

First, section 105 would provide retroactive payments under the Traumatic Injury Protection under Servicemembers’ Group Life Insurance program to those injured outside of the Operation Iraqi Freedom or Operation Enduring Freedom theaters of operation on or between October 7, 2001, and December 1, 2005. This change will benefit those like Seaman Robert Roeder, whose leg was severed by an arresting wire on board an aircraft carrier that was on its way to the Persian Gulf. Because his injury occurred outside of a war zone, under current law he is not eligible for assistance, a reality that S. 1315 would remedy.

Several provisions within Title II of the bill would expand the array of housing grant assistance programs available to those who have severe burn injuries. The prevalence of severe burn injuries is a sad reality of the present conflict. These provisions are an example of our collective responsibility to modernize existing benefit programs to reflect the realities of the present conflict.

Again, S. 1315 has many provisions which are commendable and worthy of immediate action. However, I do wish to provide additional information as to some provisions in the Committee Bill and, more importantly, to comment on several of the bill’s provisions with which I am concerned. It is my sincere hope that the issues I am about to outline will be addressed prior to S. 1315 clearing the Senate.

SECTIONS 301 AND 302

Sections 301 and 302 of the Committee bill include provisions pertaining to the administration and funding of “State approving agencies” (hereinafter, “SAAs”). Some of these provisions were derived from S. 1290, a bill I introduced to ensure that veterans and their families will have access to educational assistance benefits unimpeded by layers of bureaucracy and inflexible legal requirements. Although the Committee report provides a brief explanation of these provisions, I wish to discuss more thoroughly the reasons why current law should be modified and to explain key differences between the funding mechanism in my bill and the funding provision in S. 1315.

Each year, VA provides educational assistance benefits to veterans, servicemembers, reservists, and their families to pursue a wide array of educational opportunities, including traditional college degrees, vocational training, apprenticeships, and on-the-job training programs. VA contracts with entities called SAAs to assess whether schools and training programs are of sufficient quality for individuals to receive VA education benefits while pursuing their programs. That SAA approval process was originally instituted after World War II to help stem abuses of veterans' education benefits, such as scam vocational and business schools profiting from those education benefits and then not providing veterans with an education of any value.

Today, unlike 60 years ago, schools and educational programs of all types may be scrutinized by a number of different entities, including the Department of Education, the Department of Labor, various national and regional accrediting bodies, and state licensing agencies. In fact, in 1995 the General Accounting Office (now the Government Accountability Office (hereinafter, "GAO")) found that a substantial portion of the approval activities performed by SAAs overlapped with work done by others. Several years later, the Commission on Servicemembers and Veterans Transition Assistance concluded that veterans should be "the primary judge of the appropriateness of accredited courses to their plans for the future" and that "[a]pproval of institutions accredited by accrediting bodies recognized by the Department of Education should suffice for veterans' training approval."

In the years since those findings, Congress has altered the responsibilities of SAAs by requiring them to perform additional functions, such as promoting the development of apprenticeship and on-the-job training programs, conducting outreach services, and approving licensing tests. However, the traditional approval functions performed by SAAs—which are specifically required by statute—have not been significantly modified. Thus, last year, I asked GAO to evaluate the extent to which SAA approval activities currently overlap with functions performed by the Departments of Labor and Education and what value is added by the services performed by SAAs.

In its March 2007 report, GAO found that "[m]any education and training programs approved by SAAs have also been approved by [the Departments of] Education or Labor and VA and SAAs have taken few steps to coordinate approval activities with these agencies." GAO stressed that "[i]t is important that VA work with other federal agencies to determine how the scope of the approval process could be streamlined, such as to determine the extent to which SAAs could rely on recognized accreditors' assessments of institutions' policies on student achievement to reduce overlap and ensure that federal dollars are spent efficiently." To that end, GAO recommended that VA "collaborate with other agencies to identify any duplicative efforts and use the agency's administrative and regulatory authority to streamline the approval process."

In addition, GAO found that "it is difficult to assess the effectiveness of SAA activities, in part because VA does not have outcome measures in place to fully evaluate SAA performance" and "does not require SAAs to collect information on the amount of resources

they spend on specific approval activities.” Thus, GAO concluded that VA “does not have all relevant information for making resource allocation decisions and cannot determine if it is spending its federal dollars efficiently and effectively.”

In view of these findings, I introduced S. 1290 to overhaul the statutory scheme regarding SAAs to help eliminate redundant administrative procedures, increase VA’s flexibility in determining the nature and extent of services that should be performed by SAAs, and improve accountability for any activities they undertake. I am pleased that S. 1315 includes provisions that would require VA to coordinate with other entities in order to reduce overlapping activities and to report to Congress on its efforts to establish appropriate performance measures and tracking systems for SAA activities. However, I remain concerned that S. 1315 would leave in place the inflexible statutory provisions that mandate what activities SAAs must perform, how those functions must be carried out, and how VA must pay for them. As VA stated in response to GAO’s findings, “amending the agency’s administrative and regulatory authority to streamline the approval process may be difficult due to the specific approval requirements of the law.” Thus, I believe that, in order to effectively update and streamline this process, VA should be provided with the authority to contract with SAAs for services that it deems valuable and to determine how those services should be performed, evaluated, and compensated.

Finally, I wish to draw attention to the funding provision in section 302 of the Committee bill, which would provide \$19 million in mandatory funding to pay for SAA services for each fiscal year hereafter. To the contrary, my bill (S. 1290) included a funding provision—similar to legislation that the Senate passed in 2006—that would provide a \$19 million spending authorization for SAAs. This funding mechanism would, for now, continue to allow some funding to be drawn from mandatory spending accounts and would begin to transition SAA funding to a discretionary funding model. By relying on discretionary—rather than mandatory—funding, VA and the SAAs would have to justify budgeting and funding decisions based on need and performance outcomes, as with any private-sector business or good-government business model.

SECTION 401

Section 401 of S. 1315 would expand benefits to certain Filipino veterans residing both in the United States and abroad. I support improving benefits for Filipino veterans who fought under U.S. command during World War II. However, I believe the approach taken in this bill with respect to special pension benefits for non-U.S. citizen and non-U.S. resident Filipino veterans and surviving spouses is overly generous and does not reflect wide discrepancies in U.S. and Philippine standards of living.

Pension benefits for veterans residing in the United States are paid at a maximum annual rate of \$10,929 for a veteran without dependents, \$14,313 for a veteran with one dependent, and \$7,329 for a surviving spouse. When viewing these amounts in relation to U.S. average household income of \$46,000, we find that the maximum VA pension represents anywhere from 16 to 31 percent of U.S. household income. In contrast, when measured against the

Philippine average household income of \$2,800, the special pension for Filipino veterans in S. 1315 represents anywhere from 86 to 161 percent of Philippine household income.

I think it is a mistake, and grossly unfair to U.S.-based pension recipients, to pay a benefit to veterans in the Philippines that far exceeds the relative value of the same benefit provided in the United States. Providing benefits for Filipino veterans in the name of equity should not be done in a manner that, in my opinion, creates a dramatic inequity for our U.S. veterans.

Furthermore, the offset that S. 1315 uses to ensure that the bill is in compliance with Congressional budget rules would have the effect of reducing pension amounts to elderly, poor, and disabled veterans predominantly residing in the U.S. The extra pension amounts were established as a result of a 2006 decision of the Court of Appeals for Veterans Claims in *Hartness v. Nicholson*. In my opinion, these extra payments for certain categories of veterans were never contemplated by Congress and, therefore, are not justified. However, if presented with the choice of whether to provide extra pension assistance to low-income veterans in the U.S. or to provide extra pension assistance in the amounts contemplated in section 401 of S. 1315, I would recommend to my colleagues that they choose the former.

SECTIONS 205, 701, 702, AND 802

I also wish to comment on four additional provisions that were adopted as amendments at the Committee's June 27, 2007, markup. In doing so I want to make it clear that my comments have nothing at all to do with the substance of the proposed policy changes contained in these provisions. Rather, my comments will focus on the manner in which the policy changes in each provision are proposed to be financed; whether the proposed financing method is in consort with the spirit of sound budgeting principles; and whether the financing method may potentially result in an unwieldy and inequitable outcome for veterans.

Each of the four provisions proposes to authorize the expenditure of discretionary appropriations as an "overlay" for the purpose of supplementing entitlement programs for veterans. Thus, beneficiaries of certain housing and auto grant programs, and burial-related programs, would be "entitled" to the amounts specified in the provisions, but only to the extent that annual appropriations bills provided the necessary discretionary funding that was in addition to the funding provided in regular mandatory entitlement spending.

The problem with creating "hybrid entitlement" programs—one part funded on a mandatory basis, the other funded through an annual discretionary appropriation—is both the ensuing problems that would exist in administering the programs and the implications such a model would have on how Congress controls spending of taxpayer dollars. We have budget rules referred to as Pay-As-You-Go or "PAYGO" that require the Congress to pay for new entitlement spending through a decrease in other entitlement spending, an increase in revenue, or a combination of both. Such a construct was created in order to keep budget deficits from growing. Yet the four provisions in question adopt none of these approaches.

Rather, they provide a workaround which serves to frustrate the PAYGO rule's purpose. Instead of finding mandatory spending offsets for the new spending desired under the provisions, authority is given to simply provide supplemental discretionary money in annual appropriations bills.

In the absence of any cap on overall VA discretionary appropriations, what we will have is a recipe for more spending. Under this financing construct, there is no prioritization required. There is no need to offset other authorized spending. Rather, the administration must simply request in annual appropriations bills the amount that would be required to meet the full entitlement amount. I am afraid that this approach turns sound budgeting principles on its head.

If we say "yes" to this approach to fund entitlement programs, what then is next? It seems odd to me that the Committee would adopt these provisions to provide a workaround of the Congress's budget rules, while at the same time adhering strictly to the rules with respect to other spending in the bill. Why did the Committee not use the financing approach in these provisions to fund all the entitlement expansions in S. 1315, rather than paying for them with reductions in mandatory spending? There is no clear answer to these questions. What is clear is that adoption of these provisions, while enticing, would be to undermine the very reason we have a PAYGO rule in the first place.

Furthermore, how would this approach work? What would happen if the appropriations bill fully funded a program one year, but not the next? Would it be equitable to pay an entitlement to a veteran in one year, a different amount to another veteran the next year, then still another amount the year after? What would happen if funding ran out midyear? These are all questions that deserve more attention and analysis before we move forward.

SECTION 501

I am pleased that S. 1315 includes many provisions from S. 1289, The Veterans' Justice Assurance Act of 2007, a bill I introduced to help the U.S. Court of Appeals for Veterans Claims (hereinafter, "CAVC" or "Court") deal with its current caseload and help ensure that the Court has the judicial resources it needs to decide veterans' cases in a timely fashion. Although the Committee report provides a general overview of the Court-related provisions, I believe it would be useful to include a discussion of the history of the current law and the circumstances that demonstrate the need to revisit it. In my view, this background information also highlights the need for Congress to take additional measures to ensure that, in the long-term, veterans will not experience disruptions in service as judges' terms come to an end and they retire in clusters.

By way of background, Congress created the Court in 1988 to provide judicial review of decisions rendered by the Board of Veterans' Appeals, a body within VA that decides appeals on claims for VA benefits. See Pub. L. 100-687 (1988); Pub. L. 105-368 (1998) (renaming the Court). The CAVC was initially authorized to have seven judges (including one Chief Judge) appointed to serve 15-year terms. A judge was permitted to retire at the end of that term (or earlier if certain age and service requirements were met)

and would thereafter receive the same annual pay that was in effect at the time of the judge's retirement.

The original seven judges were confirmed between 1989 and 1991 and, because their terms were not staggered, all of their terms would have expired between 2004 and 2005. In view of that possibility, the CAVC submitted a legislative proposal to Congress in 1997 "to deal with [this] serious problem of judge turnover." 143 Cong. Rec. S.6916 (July 7, 1997). That proposal included a provision to permit "the recall of retired judges in the event of judicial vacancies or increased workload." 143 Cong. Rec. S. 6914. The Court requested that, "[d]uring the period of recall service the retired judge would receive, in addition to the judge's retired pay, the difference between that pay and pay of an active judge of the Court." 143 Cong. Rec. S. 6915.

Subsequently, both the Senate and House of Representatives Committees on Veterans' Affairs introduced bills based on the Court's proposals and ultimately passed legislation to provide for post-retirement service by retired CAVC judges. See Pub. L. 106-117 (1999). Specifically, that new law permitted retiring judges to make an election at the time of retirement to be "recall eligible" and provided the Chief Judge with authority to recall those judges for up to 90 days per calendar year or, with the consent of the judge, for up to 180 days per calendar year. In addition, recall-eligible retired judges became eligible to receive annual pay equal to the annual salary of an active judge (pay-of-the-office), regardless of how much, if any, recall service they performed during the year. As the House of Representatives Committee on Veterans' Affairs reported, these changes were intended "to provide the Court and its retired judges the same authority and responsibilities as other federal court systems as an effective tool to prevent lengthening the time a veteran must wait for a decision on an appeal." H. Rep. 106-202, at 13-14 (1999).

Following the enactment of those provisions, the original CAVC judges began to retire, with one judge retiring in 2000, another in 2002, and the remaining four in an 11-month period between 2004 and 2005.¹ As a result, the CAVC was without a full complement of active judges for much of that period. During that same time, the CAVC's incoming caseload experienced significant increases, reaching over 2,500 incoming cases in 2003, which at that time was the highest level in the Court's history, and then reaching over 3,400 new cases in 2005. In total, the CAVC received over 1,800 more cases than it decided from 2000 to 2005, and the number of cases pending at the Court grew from almost 2,300 in 1999 to over 4,600 in 2005.

In July 2006, I called a hearing—as then Chairman of the Committee—to discuss the challenges facing the Court. S. Hrg. 109-694, Senate Committee on Veterans' Affairs, July 13, 2006, 109th Cong., 2d Sess. At that time, the CAVC had over 5,800 pending cases, which was more than double the number of cases pending just two years earlier. Yet, as was discussed at that hearing, the Court had never used its authority to recall judges, even though

¹One of the original judges, The Honorable Hart T. Mankin, died in 1996.

the six retired judges had all elected to be recall eligible. S. Hrg. 109–694, at 21.

At the hearing, the Chief Judge of the CAVC testified that “[t]he critical piece in deciding to recall judges is to recall them at a time when their limited availability can be most useful.” S. Hrg. 109–694, at 9. Also, as I stressed, judges from other courts routinely provide post-retirement service and a key difference from the CAVC appeared to be that “other courts generally pay retired judges the active judge salary only if they are actually performing the work.” S. Hrg. 109–694, at 22. As I mentioned at that hearing, recalling judges appeared to be “a responsible decision . . . in dealing with this growing [backlog] problem.” S. Hrg. 109–694, at 22–23. I was thus very pleased that, less than two months after that hearing, the CAVC began to recall retired judges for the first time in the Court’s history. See *In Re: Recall of Retired Judges*, 20 Vet. App. XL (2006).

Based on this experience, I introduced S. 1289 to modify the authorities for the recall of retired judges and the retirement pay structure, and I am pleased that many of those provisions have been included in the Committee Bill. In proposing these changes, I wish to stress that the CAVC’s recall system was explicitly requested by the Court as a means to deal with “judicial vacancies or increased workload.” 143 Cong. Rec. S. 6914. However, no judge was recalled between 2000 and 2005, even though both of those contingencies actually occurred—judicial vacancies and unprecedented increases in the Court’s caseload. In my view, this experience has demonstrated that the recall system, as currently structured, does not provide a reasonable incentive for retired judges to serve in recall status and that the limited recall period constrains the usefulness of this tool.

Removing the cap on voluntary recall service and exempting recall-eligible judges from involuntary recall once they have served five years of recall service, as the Committee Bill would do, should provide the authority and an incentive for recall-eligible judges to serve longer or more frequent periods of recall service. In the long term, the Committee Bill would make recall an even more robust resource by reserving the highest pay level (pay-of-the-office) for those retired judges actually performing recall service, thus creating a meaningful incentive for retired judges to return to work. At the same time, judges would still receive a generous retirement package of no less than 100 percent of their salary on the day they retire. In my view, these steps should help ensure that the services of experienced, retired judges will be available when needed and that the Court will be able to consistently provide timely decisions to veterans seeking justice from the Court.

Although these provisions should significantly benefit veterans and the Court, I continue to believe that Congress should take additional steps to ensure that, in the long term, veterans will not experience disruptions in service as judges’ terms come to an end. As described above, the CAVC struggled after six experienced judges retired between 2000 and 2005. Unfortunately, the Court will likely face an even more drastic turnover between 2015 and 2019, with six judges becoming eligible to retire and four potentially retiring in a single two-week period. To me, this suggests that Congress

should take extraordinary measures, as my bill (S. 1289) would do, to break this cycle of en masse retirements and to ensure that the Court consistently has the judicial capacity it needs to provide veterans with the prompt Court decisions they deserve.

CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

TITLE 38—VETERANS' BENEFITS

* * * * *

PART I—GENERAL PROVISIONS

CHAPTER 1—GENERAL

* * * * *

Sec.

[107. Certain service deemed not to be active service.]

107. Certain service with Philippine forces deemed to be active service.

* * * * *

[SEC. 107. CERTAIN SERVICE DEEMED NOT TO BE ACTIVE SERVICE.]

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

[(1) contracts of National Service Life Insurance entered into before February 18, 1946;

[(2) chapter 10 of title 37; and

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

[Except as provided in subsection (c) or (d), payments under such chapters shall be made at a rate of \$0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate of \$0.50 for each dollar. Any payments made before February 18, 1946, to any such member under such laws

conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstance that such member's service was not service in the Armed Forces or any component thereof within the meaning of any such law.】

【(b) Service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 shall not be deemed to have been active military, naval, or air service for the purposes of any of the laws administered by the Secretary except—

【(1) with respect to contracts of National Service Life Insurance entered into (A) before May 27, 1946, (B) under section 620 or 621 of the National Service Life Insurance Act of 1940, or (C) under section 1922 of this title; and

【(2) chapters 11, 13 (except section 1312(a)), 23, and 24 (to the extent provided for in section 2402(8)) of this title.】

【Except as provided in subsection (c) or (d), payments under such chapters shall be made at a rate of \$0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate of \$0.50 for each dollar.】

【(c) In the case of benefits under subchapters II and IV of chapter 11 of this title and subchapter II of chapter 13 (except section 1312(a)) of this title paid by reason of service described in subsection (a) or (b) to an individual residing in the United States who is a citizen of, or an alien lawfully admitted for permanent residence in, the United States, the second sentence of the applicable subsection shall not apply.】

【(d)(1) With respect to benefits under chapter 23 of this title, in the case of an individual described in paragraph (2), the second sentence of subsection (a) or (b), as otherwise applicable, shall not apply.

【(2) Paragraph (1) applies to any individual whose service is described in subsection (a) and who dies after November 1, 2000, or whose service is described in subsection (b) and who dies after the date of the enactment of the Veterans Benefits Act of 2003, if the individual, on the individual's date of death—

【(A) is a citizen of, or an alien lawfully admitted for permanent residence in, the United States;

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

【(C) either—

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

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

SEC. 107. CERTAIN SERVICE WITH PHILIPPINE FORCES DEEMED TO BE ACTIVE SERVICE.

(a) *IN GENERAL.*—Service described in subsection (b) shall be deemed to have been active military, naval, or air service for purposes of any law of the United States conferring rights, privileges, or benefits upon any individual by reason of the service of such individual or the service of any other individual in the Armed Forces.

(b) *SERVICE DESCRIBED.*—Service described in this subsection is service—

(1) before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States; or

(2) in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 (59 Stat. 538).

(c) **DEPENDENCY AND INDEMNITY COMPENSATION FOR CERTAIN RECIPIENTS RESIDING OUTSIDE THE UNITED STATES.**—(1) Dependency and indemnity compensation provided under chapter 13 of this title to an individual described in paragraph (2) shall be made at a rate of \$0.50 for each dollar authorized.

(2) An individual described in this paragraph is an individual who resides outside the United States and is entitled to dependency and indemnity compensation under chapter 13 of this title based on service described in subsection (b).

(d) **MODIFIED PENSION AND DEATH PENSION FOR CERTAIN RECIPIENTS RESIDING OUTSIDE THE UNITED STATES.**—(1) Any pension provided under subchapter II or III of chapter 15 of this title to an individual described in paragraph (2) shall be made only as specified in section 1514 of this title.

(2) An individual described in this paragraph is an individual who resides outside the United States and is entitled to a pension provided under subchapter II or III of chapter 15 of this title based on service described in subsection (b).

(e) **UNITED STATES DEFINED.**—In this section, the term ‘United States’ means the States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other possession or territory of the United States.

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CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

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Sec.

305A. Termination or suspension of contracts for cellular telephone service.

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SEC. 305A. TERMINATION OR SUSPENSION OF CONTRACTS FOR CELLULAR TELEPHONE SERVICE.

(a) **IN GENERAL.**—A servicemember who receives orders to deploy outside of the continental United States for not less than 90 days may request the termination or suspension of any contract for cellular telephone service entered into by the servicemember before that date if the servicemember’s ability to satisfy the contract or to utilize the service will be materially affected by that period of deployment. The request shall include a copy of the servicemember’s military orders.

(b) *RELIEF.*—Upon receiving the request of a servicemember under subsection (a), the cellular telephone service contractor concerned shall, at the election of the contractor—

(1) grant the requested relief without imposition of an early termination fee for termination of the contract or a reactivation fee for suspension of the contract; or

(2) permit the servicemember to suspend the contract at no charge until the end of the deployment without requiring, whether as a condition of suspension or otherwise, that the contract be extended.

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PART II—GENERAL BENEFITS

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

Subchapter II—Wartime Disability Compensation

SEC. 1112. PRESUMPTIONS RELATING TO CERTAIN DISEASES AND DISABILITIES.

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(b)(1) * * *

(2) * * *

(F) *Osteoporosis, if the Secretary determines that the veteran was diagnosed with post-traumatic stress disorder (PTSD).*

* * * * *

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

Subchapter II—Dependency and Indemnity Compensation

SEC. 1311. DEPENDENCY AND INDEMNITY COMPENSATION TO A SURVIVING SPOUSE.

* * * * *

(f) * * *

(5) *Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the amount payable under paragraph (1), as such amount was in effect immediately prior to the date of such increase in benefit amounts, by the same percentage as the percentage by which such benefit amounts are increased. Any increase in a dollar amount under this paragraph shall be rounded down to the next lower whole dollar amount.*

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CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

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Sec.

1514. *Certain recipients residing outside the United States.*

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Subchapter I—General

SEC. 1508. FREQUENCY OF PAYMENT OF PENSION BENEFITS.

(a) Except as provided under subsection (b) of this section, benefits under sections 1514, 1521, 1541, and 1542 of this title shall be paid monthly.

(b) Under regulations which the Secretary shall prescribe, benefits under sections 1514, 1521, 1541, and 1542 of this title may be paid less frequently than monthly if the amount of the annual benefit is less than 4 percent of the maximum annual rate payable to a veteran under section 1521(b) of this title.

* * * * *

Subchapter II—Veterans' Pensions

Service Pension

SEC. 1513. VETERANS 65 YEARS OF AGE AND OLDER.

(a) The Secretary shall pay to each veteran of a period of war who is 65 years of age or older and who meets the service requirements of section 1521 of this title (as prescribed in subsection (j) of that section) pension at the rates prescribed [by section 1521 of this title and under the conditions (other than the permanent and total disability requirement) applicable to pension paid under that section] *by subsection (b), (c), (f)(1), (f)(5), or (g) of that section, as the case may be and as increased from time to time under section 5312 of this title.*

(b) *The conditions in subsections (h) and (i) of section 1521 of this title shall apply to determinations of income and maximum payments of pension for purposes of this section.*

[(b)] (c) If a veteran is eligible for pension under both this section and section 1521 of this title, pension shall be paid to the veteran only under section 1521 of this title.

* * * * *

SEC. 1514. CERTAIN RECIPIENTS RESIDING OUTSIDE THE UNITED STATES.

(a) *SPECIAL RATES FOR PENSION BENEFITS FOR INDIVIDUALS SERVING WITH PHILIPPINE FORCES AND SURVIVORS.—(1) Payment under this subchapter to an individual who resides outside the United States and is eligible for such payment because of service described in section 107(b) of this title shall be made as follows:*

(A) *For such an individual who is married, at a rate of \$4,500 per year (as increased from time to time under section 5312 of this title).*

(B) *For such an individual who is not married, at a rate of \$3,600 per year (as increased from time to time under section 5312 of this title).*

(2) *Payment under subchapter III of this chapter to an individual who resides outside the United States and is eligible for such payment because of service described in section 107(b) of this title shall*

be made at a rate of \$2,400 per year (as increased from time to time under section 5312 of this title).

(3) An individual who is otherwise entitled to benefits under this chapter and resides outside the United States, and receives or would otherwise be eligible to receive a monetary benefit from a foreign government, may not receive benefits under this chapter for service described in section 107(b) of this title if receipt of such benefits under this chapter would reduce such monetary benefit from such foreign government.

(4) The provisions of sections 1503(a), 1506, 1522, and 1543 of this title shall not apply to benefits paid under this section.

(b) **INDIVIDUALS LIVING OUTSIDE THE UNITED STATES ENTITLED TO CERTAIN SOCIAL SECURITY BENEFITS INELIGIBLE.**—An individual residing outside the United States who is receiving or is eligible to receive benefits under title VIII of the Social Security Act (42 U.S.C. 1001 et seq.) may not receive benefits under this chapter.

(c) **UNITED STATES DEFINED.**—In this section, the term ‘United States’ means the States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other possession or territory of the United States.

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PART II—GENERAL BENEFITS

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

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

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SEC. 1717. HOME HEALTH SERVICES; INVALID LIFTS AND OTHER DEVICES.

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(d)(1) In the case of a member of the Armed Forces who, as determined by the Secretary, has a disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service, the Secretary may furnish improvements and structural alterations for such member for such disability or as otherwise described in subsection (a)(2) while such member is hospitalized or receiving outpatient medical care, services, or treatment for such disability if the Secretary determines that such member is likely to be discharged or released from the Armed Forces for such disability.

(2) The furnishing of improvements and alterations under paragraph (1) in connection with the furnishing of medical services described in subparagraph (A) or (B) of subsection (a)(2) shall be subject to the limitation specified in the applicable subparagraph.

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CHAPTER 19—INSURANCE

Sec.

1922B. *Level-premium term life insurance for veterans with service-connected disabilities.*

* * * * *

Subchapter I—National Service Life Insurance

SEC. 1922. SERVICE DISABLED VETERANS' INSURANCE.

(a) Any person who is released from active military, naval, or air service, under other than dishonorable conditions on or after April 25, 1951, and is found by the Secretary to be suffering from a disability or disabilities for which compensation would be payable if 10 per centum or more in degree and except for which such person would be insurable according to the standards of good health established by the Secretary, shall, upon application in writing made within two years from the date service-connection of such disability is determined by the Secretary and payment of premiums as provided in this subchapter be granted insurance by the United States against the death of such person occurring while such insurance is in force. If such a person is shown by evidence satisfactory to the Secretary to have been mentally incompetent during any part of the two-year period, application for insurance under this section may be filed within two years after a guardian is appointed or within two years after the removal of such disability as determined by the Secretary, whichever is the earlier date. If the guardian was appointed or the removal of the disability occurred before January 1, 1959, application for insurance under this section may be made within two years after that date. Insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based upon the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; (4) insurance granted under this section shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to a revolving fund in the Treasury of the United States, and any payments on such insurance shall be made **[directly from such fund]** *directly from such fund*; and (5) *administrative costs to the Government for the costs of the program of insurance under this section shall be paid from premiums credited to the fund under paragraph (4), and payments for claims against the fund under paragraph (4) for amounts in excess of amounts credited to such fund under that paragraph (after such administrative costs have been paid) shall be paid from appropriations to the fund.* Appropriations to such fund are hereby authorized. As to insurance issued under this section, waiver of premiums pursuant to section 602(n) of the National Service Life Insurance Act of 1940 and section 1912 of this title shall not be denied on the

ground that the service-connected disability became total before the effective date of such insurance.

* * * * *

SEC. 1922A. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed ~~[\$20,000]~~ \$30,000.

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SEC. 1922B. LEVEL-PREMIUM TERM LIFE INSURANCE FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) *IN GENERAL.*—In accordance with the provisions of this section, the Secretary shall grant insurance to each eligible veteran who seeks such insurance against the death of such veteran occurring while such insurance is in force.

(b) *ELIGIBLE VETERANS.*—For purposes of this section, an eligible veteran is any veteran less than 65 years of age who has a service-connected disability.

(c) *AMOUNT OF INSURANCE.*—(1) Subject to paragraph (2), the amount of insurance granted an eligible veteran under this section shall be \$50,000 or such lesser amount as the veteran shall elect. The amount of insurance so elected shall be evenly divisible by \$10,000.

(2) The aggregate amount of insurance of an eligible veteran under this section, section 1922 of this title, and section 1922A of this title may not exceed \$50,000.

(d) *REDUCED AMOUNT FOR VETERANS AGE 70 OR OLDER.*—In the case of a veteran insured under this section who turns age 70, the amount of insurance of such veteran under this section after the date such veteran turns age 70 shall be the amount equal to 20 percent of the amount of insurance of the veteran under this section as of the day before such date.

(e) *PREMIUMS.*—(1) Premium rates for insurance under this section shall be based on the 2001 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 4.5 per centum per annum.

(2) The amount of the premium charged a veteran for insurance under this section may not increase while such insurance is in force for such veteran.

(3) The Secretary may not charge a premium for insurance under this section for a veteran as follows:

(A) A veteran who has a service-connected disability rated as total and is eligible for a waiver of premiums under section 1912 of this title.

(B) A veteran who is 70 years of age or older.

(4) Insurance granted under this section shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to a revolving fund in the Treasury of the United States, and any payments on such insurance shall be made directly from such fund. Appropriations to such fund are hereby authorized.

(5) *Administrative costs to the Government for the costs of the program of insurance under this section shall be paid from premiums credited to the fund under paragraph (4), and payments for claims against the fund under paragraph (4) for amounts in excess of amounts credited to such fund under that paragraph (after such administrative costs have been paid) shall be paid from appropriations to the fund.*

(f) *APPLICATION REQUIRED.—An eligible veteran seeking insurance under this section shall file with the Secretary an application therefor. Such application shall be filed not later than the earlier of—*

(1) the end of the two-year period beginning on the date on which the Secretary notifies the veteran that the veteran has a service-connected disability; and

(2) the end of the 10-year period beginning on the date of the separation of the veteran from the Armed Forces, whichever is earlier.

* * * * *

Subchapter III—Servicemembers’ Group Life Insurance

SEC. 1967. PERSONS INSURED; AMOUNT.

(a)(1) * * *

(A) * * *

(C) *In the case of any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in [section 1965(5)(B) of this title] subparagraph (B) or (C) of section 1965(5) of this title.*

* * * * *

(5) * * *

(C) *The first day a member of the Ready Reserve meets the qualifications set forth in [section 1965(5)(B) of this title] subparagraph (B) or (C) of section 1965(5) of this title.*

* * * * *

SEC. 1968. DURATION AND TERMINATION OF COVERAGE; CONVERSION.

(a) * * *

(5) * * *

(B) * * *

(ii) *[120 days after] the date of termination of the insurance on the member’s life under this subchapter; or*

* * * * *

SECTION 1980A. TRAUMATIC INJURY PROTECTION

(d) *[Payments under] (1) Payments under this section for qualifying losses shall be made in accordance with a schedule prescribed by the Secretary, by regulation, specifying the amount of payment to be made for each type of qualifying loss, to be based on the severity of the qualifying loss. The minimum payment that may be prescribed for a qualifying loss is \$25,000, and the maximum payment that may be prescribed for a qualifying loss is \$100,000.*

(2) As the Secretary considers appropriate, the schedule required by paragraph (1) may distinguish in specifying payments for qualifying losses between the severity of a qualifying loss of a dominant hand and a qualifying loss of a non-dominant hand.

* * * * *

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

* * * * *

Sec.

[2101. Veterans eligible for assistance.]

2101. Acquisition and adaptation of housing: eligible veterans.

2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States.

* * *

[2102A. Assistance for veterans residing temporarily in housing owned by a family member.]

2102A. Assistance for individuals residing temporarily in housing owned by a family member.

2102B. Supplemental assistance.

* * * * *

**SEC. 2101. [VETERANS ELIGIBLE FOR ASSISTANCE.] ACQUISITION AND
ADAPTATION OF HOUSING: ELIGIBLE VETERANS.**

(a) * * *

(2) * * *

(E) The disability is due to a severe burn injury (as determined pursuant to regulations prescribed by the Secretary).

(b) * * *

(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets **[either]** any of the following criteria:

* * * * *

(C) The disability is due to a severe burn injury (as so determined).

* * * * *

[(c) (1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A), (B), (C), or (D) of paragraph (2) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (3) of that subsection.

[(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (2) of that subsection if such disability is the result of

an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (3) of that subsection.】

【(d)】 (c) REGULATIONS. Assistance under this section shall be provided in accordance with such regulations as the Secretary may prescribe.

* * * * *

SEC. 2101A. ELIGIBILITY FOR BENEFITS AND ASSISTANCE: MEMBERS OF THE ARMED FORCES WITH SERVICE-CONNECTED DISABILITIES; INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.

(a) *MEMBERS WITH SERVICE-CONNECTED DISABILITIES.*—(1) *The Secretary may provide assistance under this chapter to a member of the Armed Forces serving on active duty who is suffering from a disability that meets applicable criteria for benefits under this chapter if the disability is incurred or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under this chapter to veterans eligible for assistance under this chapter and subject to the same requirements as veterans under this chapter.*

(2) *For purposes of this chapter, any reference to a veteran or eligible individual shall be treated as a reference to a member of the Armed Forces described in subsection (a) who is similarly situated to the veteran or other eligible individual so referred to.*

(b) *BENEFITS AND ASSISTANCE FOR INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.*—(1) *Subject to paragraph (2), the Secretary may, at the Secretary's discretion, provide benefits and assistance under this chapter (other than benefits under section 2106 of this title) to any individual otherwise eligible for such benefits and assistance who resides outside the United States.*

(2) *The Secretary may provide benefits and assistance to an individual under paragraph (1) only if—*

(A) *the country or political subdivision in which the housing or residence involved is or will be located permits the individual to have or acquire a beneficial property interest (as determined by the Secretary) in such housing or residence; and*

(B) *the individual has or will acquire a beneficial property interest (as so determined) in such housing or residence.*

(c) *REGULATIONS.*—*Benefits and assistance under this chapter by reason of this section shall be provided in accordance with such regulations as the Secretary may prescribe.*

SEC. 2102. LIMITATIONS ON ASSISTANCE FURNISHED.

(a) The assistance authorized by section 2101(a) of this title shall be afforded under one of the following plans, at the option of the 【veteran】 *individual*—

(1) where the 【veteran】 *individual* elects to construct a housing unit on land to be acquired by such 【veteran】 *individual*, the Secretary shall pay not to exceed 50 percent of the total cost to the 【veteran】 *individual* of (A) the housing unit and (B) the necessary land upon which it is to be situated;

(2) where the [veteran] *individual* elects to construct a housing unit on land acquired by such [veteran] *individual* prior to application for assistance under this chapter, the Secretary shall pay not to exceed the smaller of the following sums: (A) 50 percent of the total cost to the [veteran] *individual* of the housing unit and the land necessary for such housing unit, or (B) 50 percent of the cost to the [veteran] *individual* of the housing unit plus the full amount of the unpaid balance, if any, of the cost to the [veteran] *individual* of the land necessary for such housing unit;

(3) where the [veteran] *individual* elects to remodel a dwelling which is not adapted to the requirements of such [veteran's] *individual's* disability, acquired by such [veteran] *individual* prior to application for assistance under this chapter, the Secretary shall pay not to exceed (A) the cost to the [veteran] *individual* of such remodeling; or (B) 50 percent of the cost to the [veteran] *individual* of such remodeling; plus the smaller of the following sums: (i) 50 percent of the cost to the [veteran] *individual* of such dwelling and the necessary land upon which it is situated, or (ii) the full amount of the unpaid balance, if any, of the cost to the [veteran] *individual* of such dwelling and the necessary land upon which it is situated; and

(4) where the [veteran] *individual* has acquired a suitable housing unit, the Secretary shall pay not to exceed the smaller of the following sums: (A) 50 percent of the cost to the [veteran] *individual* of such housing unit and the necessary land upon which it is situated, or (B) the full amount of the unpaid balance, if any, of the cost to the [veteran] *individual* of such housing unit and the necessary land upon which it is situated.

(b) Except as provided in section 2104(b) of this title, the assistance authorized by section 2101(b) of this title shall be limited to the lesser of—

(1) the actual cost, or, in the case of [a veteran] *an individual* acquiring a residence already adapted with special features, the fair market value, of the adaptations determined by the Secretary under such section 2101(b) to be reasonably necessary, or

(2) \$ 10,000.

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

(d)(1) The aggregate amount of assistance available to [a veteran] *an individual* under sections 2101(a) and 2102A of this title shall be limited to \$ 50,000.

(2) The aggregate amount of assistance available to [a veteran] *an individual* under sections 2101(b) and 2102A of this title shall be limited to \$ 10,000.

(3) No [veteran] *individual* may receive more than three grants of assistance under this chapter.

SEC. 2102A. [ASSISTANCE FOR VETERANS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER] ASSISTANCE FOR INDIVIDUALS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER.

(a) **PROVISION OF ASSISTANCE.**—In the case of a disabled [veteran] *individual* who is described in subsection (a)(2) or (b)(2) of section 2101 of this title and who is residing, but does not intend to permanently reside, in a residence owned by a member of such [veteran's] *individual's* family, the Secretary may assist the [veteran] *individual* in acquiring such adaptations to such residence as are determined by the Secretary to be reasonably necessary because of the [veteran's] *individual's* disability.

(b) **AMOUNT OF ASSISTANCE.**—The assistance authorized under subsection (a) may not exceed—

(1) \$14,000, in the case of [a veteran] *an individual* described in section 2101(a)(2) of this title; or

(2) \$2,000, in the case of [a veteran] *an individual* described in section 2101(b)(2) of this title.

* * * * *

(e) **TERMINATION.** No assistance may be provided under this section [after the end of the five-year period that begins on the date of the enactment of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006] *after December 31, 2011* [enacted June 15, 2006].

* * * * *

SEC. 2102B. SUPPLEMENTAL ASSISTANCE.

(a) **IN GENERAL.**—(1) *Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment in accordance with section 2102 of this title to an individual authorized to receive such assistance under section 2101 of this title for the acquisition of housing with special features or for special adaptations to a residence, the Secretary is also authorized and directed to pay such individual supplemental assistance under this section for such acquisition or adaptation.*

(2) *No supplemental assistance payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.*

(b) **AMOUNT OF SUPPLEMENTAL ASSISTANCE.**—(1) *In the case of a payment made in accordance with section 2102(a) of this title, supplemental assistance required by subsection (a) is equal to the excess of—*

(A) *the payment which would be determined under section 2102(a) of this title, and 2102A of this title if applicable, if the amount described in section 2102(d)(1) of this title were increased to the adjusted amount described in subsection (c)(1), over*

(B) *the payment determined without regard to this section.*

(2) *In the case of a payment made in accordance with section 2102(b) of this title, supplemental assistance required by subsection (a) is equal to the excess of—*

(A) the payment which would be determined under section 2102(b) of this title, and 2102A of this title if applicable, if the amount described in section 2102(b)(2) of this title and section 2102(d)(2) of this title were increased to the adjusted amount described in subsection (c)(2), over

(B) the payment determined without regard to this section.

(c) ADJUSTED AMOUNT.—(1) In the case of a payment made in accordance with section 2102(a) of this title, the adjusted amount is \$60,000 (as adjusted from time to time under subsection (d)).

(2) In the case of a payment made in accordance with section 2102(b) of this title, the adjusted amount is \$12,000 (as adjusted from time to time under subsection (d)).

(d) ADJUSTMENT.—(1) Effective on October 1 of each year (beginning in 2008), the Secretary shall increase the adjusted amounts described in subsection (c) in accordance with this subsection.

(2) The increase in amounts under paragraph (1) to take effect on October 1 of any year shall be the percentage by which (A) the residential home cost-of-construction index for the preceding calendar year exceeds (B) the residential home cost-of-construction index for the year preceding that year.

(3) The Secretary shall establish a residential home cost-of-construction index for the purposes of this subsection. The index shall reflect a uniform, national average increase in the cost of residential home construction, determined on a calendar year basis. The Secretary may use an index developed in the private sector that the Secretary determines is appropriate for purposes of this subsection.

(e) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

(A) the amount of funding that would be necessary to provide supplemental assistance under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental assistance under this section in the next fiscal year.

(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

(3) The dates described in this paragraph are the following:

(A) April 1 of each year.

(B) July 1 of each year.

(C) September 1 of each year.

(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ‘appropriate committees of Congress’ means—

(1) the Committee on Appropriations and the Committee on Veterans’ Affairs of the Senate; and

(2) the Committee on Appropriations and the Committee on Veterans’ Affairs of the House of Representatives.

SEC. 2103. FURNISHING OF PLANS AND SPECIFICATIONS.

The Secretary is authorized to furnish to [veterans] *individuals* eligible for assistance under this chapter, without cost to the [veterans] *individuals*, model plans and specifications of suitable housing units.

SEC. 2104. BENEFITS ADDITIONAL TO BENEFITS UNDER OTHER LAWS.

(a) Any [veteran] *individual* who accepts the benefits of this chapter shall not by reason thereof be denied the benefits of chapter 37 of this title; however, except as provided in subsection (b) of this section, the assistance authorized by section 2101 of this title shall not be available to any [veteran] *individual* more than once.

(b) [A veteran] *An individual* eligible for assistance under section 2101(b) of this title shall not by reason of such eligibility be denied benefits for which [such veteran] *such individual* becomes eligible under section 2101(a) of this title or benefits relating to home health services under section 1717(a)(2) of this title. However, no particular type of adaptation, improvement, or structural alteration provided to [a veteran] *an individual* under section 1717(a)(2) of this title may be provided to [such veteran] *such individual* under section 2101(b) of this title.

* * * * *

SEC. 2106. VETERANS' MORTGAGE LIFE INSURANCE.

(a) The United States shall automatically insure [any eligible veteran] *any eligible individual* age 69 or younger who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of [the veteran] *the individual* unless [the veteran] *the individual* (1) submits to the Secretary in writing [the veterans'] *the individual's* election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Secretary for information on which the premium for such insurance can be based.

(b) The amount of insurance provided [a veteran] *an individual* under this section may not exceed the lesser of [\$90,000] *\$150,000, or \$200,000 after January 1, 2012*, or the amount of the loan outstanding on the housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If [an eligible veteran] *an eligible individual* elects not to be insured under this section, [the veteran] *the individual* may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Secretary.

* * * * *

(e) Any amount of insurance in force under this section on the date of the death of [an eligible veteran] *an eligible individual* insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under

such insurance shall be satisfied when such payment is made. If the Secretary is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and deposited in the Veterans Housing Benefit Program Fund established by section 3722 of this title.

* * * * *

(h) The Secretary shall issue to **[each veteran]** *each individual* insured under this section a certificate setting forth the benefits to which **[the veteran]** *the individual* is entitled under the insurance.

(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

(1) Satisfaction of **[the veteran's]** *the individual's* indebtedness under the loan upon which the insurance is based.

(2) Termination of **[the veteran's]** *the individual's* ownership of the property securing the loan.

(3) Discontinuance of payment of premiums by **[the veteran]** *the individual*.

* * * * *

CHAPTER 23—BURIAL BENEFITS

* * * * *

Sec.

2302A. *Funeral expenses: supplemental benefits.*

2303. *Death in Department facility; plot allowance.*

2303A. *Supplemental plot allowance.*

* * *

2307A. *Death from service-connected disability: supplemental benefits for burial and funeral expenses.*

* * * * *

SEC. 2302A. FUNERAL EXPENSES: SUPPLEMENTAL BENEFITS.

(a) *IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2302(a) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral.*

(2) *No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.*

(b) *AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is \$900 (as adjusted from time to time under subsection (c)).*

(c) *ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2008, the supplemental payment described in subsection (b) shall be equal to the sum of—*

(1) *the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus*

(2) the sum of the amount described in section 2302(a) of this title and the amount under paragraph (1), multiplied by the percentage by which—

(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

(A) the amount of funding that would be necessary to provide supplemental payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental payments under this section in the next fiscal year.

(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

(3) The dates described in this paragraph are the following:

(A) April 1 of each year.

(B) July 1 of each year.

(C) September 1 of each year.

(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ‘appropriate committees of Congress’ means—

(1) the Committee on Appropriations and the Committee on Veterans’ Affairs of the Senate; and

(2) the Committee on Appropriations and the Committee on Veterans’ Affairs of the House of Representatives.

* * * * *

SEC. 2303A. SUPPLEMENTAL PLOT ALLOWANCE.

(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2303(a)(1)(A) of this title, or for the burial of a veteran under paragraph (1) or (2) of section 2303(b) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral or burial, as applicable.

(2) No supplemental plot allowance payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is \$445 (as adjusted from time to time under subsection (c)).

(c) *ADJUSTMENT.*—With respect to deaths that occur in any fiscal year after fiscal year 2008, the supplemental payment described in subsection (b) shall be equal to the sum of—

(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

(2) the sum of the amount described in section 2303(a)(1)(A) of this title and the amount under paragraph (1), multiplied by the percentage by which—

(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

(d) *ESTIMATES.*—(1) From time to time, the Secretary shall make an estimate of—

(A) the amount of funding that would be necessary to provide supplemental plot allowance payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental plot allowance payments under this section in the next fiscal year.

(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

(3) The dates described in this paragraph are the following:

(A) April 1 of each year.

(B) July 1 of each year.

(C) September 1 of each year.

(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

(e) *APPROPRIATE COMMITTEES OF CONGRESS DEFINED.*—In this section, the term ‘appropriate committees of Congress’ means—

(1) the Committee on Appropriations and the Committee on Veterans’ Affairs of the Senate; and

(2) the Committee on Appropriations and the Committee on Veterans’ Affairs of the House of Representatives.

* * * * *

SEC. 2307A. DEATH FROM SERVICE-CONNECTED DISABILITY: SUPPLEMENTAL BENEFITS FOR BURIAL AND FUNERAL EXPENSES.

(a) *IN GENERAL.*—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2307(1) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral.

(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is \$2,100 (as adjusted from time to time under subsection (c)).

(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2008, the supplemental payment described in subsection (b) shall be equal to the sum of—

(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

(2) the sum of the amount described in section 2307(1) of this title and the amount under paragraph (1), multiplied by the percentage by which—

(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

(A) the amount of funding that would be necessary to provide supplemental payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental payments under this section in the next fiscal year.

(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

(3) The dates described in this paragraph are the following:

(A) April 1 of each year.

(B) July 1 of each year.

(C) September 1 of each year.

(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ‘appropriate committees of Congress’ means—

(1) the Committee on Appropriations and the Committee on Veterans’ Affairs of the Senate; and

(2) the Committee on Appropriations and the Committee on Veterans’ Affairs of the House of Representatives.

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Subchapter VII—Philippine Commonwealth Army and Philippine Scouts

SEC. 3565. CHILDREN OF CERTAIN PHILIPPINE VETERANS.

(a) * * *

(b) ADMINISTRATIVE PROVISIONS.—The provisions of this chapter and chapter 36 shall apply to the educational assistance for children of Commonwealth Army veterans and New Philippine Scouts, [except that—

 [(1) educational assistance allowances authorized by section 3532 of this title and the special training allowance authorized by section 3542 of this title shall be paid the rate of \$ 0.50 for each dollar, and

 [(2) any reference to a State approving agency shall be deemed to refer to the Secretary.] *except that a reference to a State approving agency shall be deemed to refer to the Secretary.*

 [(c) Delimiting dates. In the case of any individual who is an eligible person solely by virtue of subsection (a) of this section, and who is above the age of seventeen years and below the age of twenty-three years on September 30, 1966, the period referred to in section 3512 of this title shall not end until the expiration of the five-year period which begins on September 30, 1966.]

* * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

Subchapter I—State Approving Agencies

* * * * *

Sec.

[3673. Cooperation.]

3673. Approval activities: cooperation and coordination of activities.

* * * * *

SEC. 3673. [COOPERATION] APPROVAL ACTIVITIES: COOPERATION AND COORDINATION OF ACTIVITIES.

* * * * *

(a) *COOPERATION IN ACTIVITIES.*—The Secretary and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Secretary and each State approving agency under the educational programs established under this chapter and chapters 34 and 35 of this title. To assure that such programs are effectively and efficiently administered, the cooperation of the Secretary and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institu-

tions, and particular attention should be given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which eligible persons or veterans are enrolled under this chapter and chapters 34 and 35 of this title.

(b) *COORDINATION OF ACTIVITIES.*—*The Secretary shall take appropriate actions to ensure the coordination of approval activities performed by State approving agencies under this chapter and chapters 34 and 35 of this title and approval activities performed by the Department of Labor, the Department of Education, and other entities in order to reduce overlap and improve efficiency in the performance of such activities*

[(b)] (c) *AVAILABILITY OF INFORMATION MATERIAL.*—*The Secretary will furnish the State approving agencies with copies of such Department of Veterans Affairs informational material as may aid them in carrying out chapters 34 and 35 of this title.*

* * * * *

SEC. 3674. REIMBURSEMENT OF EXPENSES.

(a)(1) * * *

(4) The total amount made available under this section for any fiscal year may not exceed [\$13,000,000 or, for each of fiscal years 2001 and 2002, \$14,000,000, for fiscal year 2003, \$14,000,000, for fiscal year 2004, \$18,000,000, for fiscal year 2005, \$18,000,000, for fiscal year 2006, \$19,000,000, and for fiscal year 2007,] \$19,000,000. For any fiscal year in which the total amount that would be made available under this section would exceed the amount applicable to that fiscal year under the preceding sentence except for the provisions of this paragraph, the Secretary shall provide that each agency shall receive the same percentage of the amount applicable to that fiscal year under the preceding sentence as the agency would have received of the total amount that would have been made available without the limitation of this paragraph.

* * * * *

CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

* * * * *

Sec.

3902A. *Supplemental assistance for providing automobiles or other conveyances.*

* * * * *

SEC. 3901. DEFINITIONS.

For purposes of this [chapter—] *chapter*:

(1) The term eligible person [means—] *means the following*:

(A) [any veteran] *Any veteran* entitled to compensation under chapter 11 of this title for any of the disabilities described in subclause (i), (ii), [or (iii) below] *(iii), or (iv)*, if the disability is the result of any injury incurred or disease contracted in or aggravated by active military, naval, or air service:

(i) The loss or permanent loss of use of one or both feet[;].

(ii) The loss or permanent loss of use of one or both hands[;].

(iii) The permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees in the better eye[; or].

(iv) A severe burn injury (as determined pursuant to regulations prescribed by the Secretary).

(B) [any member] Any member serving on active duty who is suffering from any disability described in subclause (i), (ii), [or (iii)] (iii), or (iv) of clause (A) of this paragraph if such disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service.

* * * * *

SEC. 3902A. SUPPLEMENTAL ASSISTANCE FOR PROVIDING AUTOMOBILES OR OTHER CONVEYANCES.

(a) *IN GENERAL.*—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the purchase of an automobile or other conveyance for an eligible person under section 3902 of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such purchase.

(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

(b) *AMOUNT OF SUPPLEMENTAL PAYMENT.*—Supplemental payment required by subsection (a) is equal to the excess of—

(1) the payment which would be determined under section 3902 of this title if the amount described in section 3902 of this title were increased to the adjusted amount described in subsection (c), over

(2) the payment determined under section 3902 of this title without regard to this section.

(c) *ADJUSTED AMOUNT.*—The adjusted amount is \$22,484 (as adjusted from time to time under subsection (d)).

(d) *ADJUSTMENT.*—(1) Effective on October 1 of each year (beginning in 2008), the Secretary shall increase the adjusted amount described in subsection (c) to an amount equal to 80 percent of the average retail cost of new automobiles for the preceding calendar year.

(2) The Secretary shall establish the method for determining the average retail cost of new automobiles for purposes of this subsection. The Secretary may use data developed in the private sector if the Secretary determines the data is appropriate for purposes of this subsection.

(e) *ESTIMATES.*—(1) *From time to time, the Secretary shall make an estimate of—*

(A) *the amount of funding that would be necessary to provide supplemental payment under this section for every eligible person for the remainder of the fiscal year in which such an estimate is made; and*

(B) *the amount that Congress would need to appropriate to provide every eligible person with supplemental payment under this section in the next fiscal year.*

(2) *On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).*

(3) *The dates described in this paragraph are the following:*

(A) *April 1 of each year.*

(B) *July 1 of each year.*

(C) *September 1 of each year.*

(D) *The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.*

(f) *APPROPRIATE COMMITTEES OF CONGRESS DEFINED.*—*In this section, the term ‘appropriate committees of Congress’ means—*

(1) *the Committee on Appropriations and the Committee on Veterans’ Affairs of the Senate; and*

(2) *the Committee on Appropriations and the Committee on Veterans’ Affairs of the House of Representatives.*

* * * * *

CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

SEC. 4103. DIRECTORS AND ASSISTANT DIRECTORS FOR VETERANS’ EMPLOYMENT AND TRAINING; ADDITIONAL FEDERAL PERSONNEL.

(a)(1) * * *

(2) (A) Each Director for Veterans’ Employment and Training for a State shall, at the time of appointment, have been a bona fide resident of the State for at least two years.

(B) *The Secretary may waive the requirement in subparagraph (A) with respect to a Director for Veterans’ Employment and Training if the Secretary determines that the waiver is in the public interest. Any such waiver shall be made on a case-by-case basis.*

* * * * *

SEC. 4110A. SPECIAL UNEMPLOYMENT STUDY.

(a)(1) The Secretary, through the Bureau of Labor Statistics, shall conduct [a study every two years] *an annual study* of unemployment among each of the following categories of veterans:

(A) *Veterans who were called to active duty while members of the National Guard or a Reserve Component.*

[(B) *Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.*]

(B) *Veterans who served in combat or in a war zone in the Post 9/11 Global Operations theaters.*

(C) Veterans who served on active duty during the **【Vietnam era】** *Post 9/11 Global Operations period* who did not serve in **【the Vietnam theater of operations】** *the Post 9/11 Global Operations theaters*.

(D) * * *

(E) * * *

【(A)】 (F) Special disabled veterans.

(2) * * *

(b) * * *

(c) *In this section:*

(1) *The term ‘Post 9/11 Global Operations period’ means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or law.*

(2) *The term ‘Post 9/11 Global Operations theaters’ means Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.*

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

Subchapter III—Payment of Benefits

SEC. 5123. ROUNDING DOWN OF PENSION RATES.

The monthly or other periodic rate of pension payable to an individual under section 1514, 1521, 1541, or 1542 of this title or under section 306(a) of the Veterans’ and Survivors’ Pension Improvement Act of 1978 (Public Law 95–588), if not a multiple of \$1, shall be rounded down to the nearest dollar.

* * * * *

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

SEC. 5312. ANNUAL ADJUSTMENT OF CERTAIN BENEFIT RATES.

(a) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase each maximum annual rate of pension under sections 1514, 1521, 1541, and 1542 of this title, the rate of increased pension paid under such sections 1521 and 1541 on account of children, and each rate of monthly allowance paid under section 1805 of this title, as such rates were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

* * * * *

(c)(1) Whenever there is an increase under subsection (a) in benefit rates payable under sections 1514, 1521, 1541, 1542, and 1805 of this title and an increase under subsection (b) in benefit rates and annual income limitations under section 1315 of this title, the Secretary shall publish such rates and limitations (including those rates adjusted by the Secretary under subsection (b)(2) of this section), as increased pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

* * * * *

CHAPTER 63. OUTREACH ACTIVITIES

SEC. 6301. PURPOSE; DEFINITION.

(a) PURPOSE. The Congress declares that—

(1) the outreach services program authorized by this chapter is for the purpose of ensuring that all veterans (especially those who have been recently discharged or released from active military, naval, or air service or *from the National Guard or Reserve*, and those who are eligible for readjustment or other benefits and services under laws administered by the Department) are provided timely and appropriate assistance to aid and encourage them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents; and

(b) DEFINITIONS. For the purposes of this chapter—

(1) *the term ‘outreach’ means the act or process of reaching out in a systematic manner to proactively provide information, services, and benefits counseling to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive benefits under the laws administered by the Secretary, to ensure that such individuals are fully informed about, and assisted in applying for, any benefits and programs under such laws;*

[(1)] (2) the term other governmental programs includes all programs under State or local laws as well as all programs under Federal law other than those authorized by this title; and

[(2)] (3) the term eligible dependent means a spouse, surviving spouse, child, or dependent parent of a person who served in the active military, naval, or air service.

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PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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Sec.

7288. Annual report.

* * * * *

Subchapter I—Organization and Jurisdiction

SEC. 7257. RECALL OF RETIRED JUDGES.

(a)(1) A retired judge of the Court may be recalled for further service on the Court in accordance with this section. To be eligible to be recalled for such service, a retired judge must at the time of the judge’s retirement provide to the chief judge of the Court (or, in the case of the chief judge, to the clerk of the Court) notice in writing that the retired judge is available for further service on the Court in accordance with this section and is willing to be recalled under this section. **【Such a notice provided by a retired judge is irrevocable】** *Such a notice provided by a retired judge to whom section 7296(c)(1)(B) of this title applies is irrevocable.*

* * * * *

(b)(1) * * *

(2) A recall-eligible retired judge may not be recalled for more than 90 days (or the equivalent) during any calendar year without the judge’s consent **【or for more than a total of 180 days (or the equivalent) during any calendar year】**.

(3) If a recall-eligible retired judge is recalled by the chief judge in accordance with this section and (other than in the case of a judge who has previously during that calendar year served at least 90 days (or the equivalent) of recalled service on the court) declines (other than by reason of disability) to perform the service to which recalled, the chief judge shall remove that retired judge from the status of a recall-eligible judge. *This paragraph shall not apply to a judge to whom section 7296(c)(1)(A) or 7296(c)(1)(B) of this title applies and who has, in the aggregate, served at least five years of recalled service on the Court under this section.*

(4) * * *

【(d)(1) The pay of a recall-eligible retired judge who retired under section 7296 of this title is specified in subsection (c) of that section.

(2) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge’s annuity under the applicable provisions of chapter 83 or 84 of title 5. **】**

(d)(1) The pay of a recall-eligible retired judge to whom section 7296(c)(1)(B) of this title applies is the pay specified in that section.

(2) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 or to whom section 7296(c)(1)(A) of this title applies shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge’s annuity under the applicable provisions of

chapter 83 or 84 of title 5 or the judge's annuity under section 7296(c)(1)(A) of this title, whichever is applicable.

* * * * *

Subchapter III—Miscellaneous Provisions

SEC. 7285. PRACTICE AND REGISTRATION FEES.

(a) The Court of Appeals for Veterans Claims may impose a *reasonable* periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed \$ 30 per year. The Court may also impose a *reasonable* registration fee on persons (other than judges of the Court) participating at judicial conferences convened pursuant to section 7286 of this title or in any other court-sponsored activity.

* * * * *

SEC. 7288. ANNUAL REPORT.

(a) *IN GENERAL.*—The chief judge of the Court shall submit annually to the appropriate committees of Congress a report summarizing the workload of the Court for the last fiscal year that ended before the submission of such report. Such report shall include, with respect to such fiscal year, the following information:

- (1) The number of appeals filed.
- (2) The number of petitions filed.
- (3) The number of applications filed under section 2412 of title 28.
- (4) The number and type of dispositions.
- (5) The median time from filing to disposition.
- (6) The number of oral arguments.
- (7) The number and status of pending appeals and petitions and of applications described in paragraph (3).
- (8) A summary of any service performed by recalled retired judges during the fiscal year.

(b) *APPROPRIATE COMMITTEES OF CONGRESS DEFINED.*—In this section, the term ‘appropriate committees of Congress’ means the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives.

* * * * *

Subchapter V—Retirement and Survivors Annuities

SEC. 7296. RETIREMENT OF JUDGES.

* * * * *

(c) (1) An individual who retires under subsection (b) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall (except as provided in paragraph (2) of this subsection) receive retired pay as follows: (1)(A) A judge who is appointed on or after the date of the enactment of the Veterans’ Benefits Enhancement Act of 2007 and who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection shall (except as provided in paragraph (2)) receive retired pay as follows:

(i) *In the case of a judge who is a recall-eligible retired judge under section 7257 of this title, the retired pay of the judge shall (subject to section 7257(d)(2) of this title) be the rate of pay applicable to that judge at the time of retirement, as adjusted from time to time under subsection (f)(3).*

(ii) *In the case of a judge other than a recall-eligible retired judge, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.*

(B) *A judge who retired before the date of the enactment of the Veterans' Benefits Enhancement Act of 2007 and elected under subsection (d) to receive retired pay under this subsection, or a judge who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection, shall (except as provided in paragraph (2)) receive retired pay as follows:*

(i) *In the case of a judge who is a recall-eligible retired judge under section 7257 of this title or who was a recall-eligible retired judge under that section and was removed from recall status under subsection (b)(4) of that section by reason of disability, the retired pay of the judge shall be the pay of a judge of the court.*

(ii) *In the case of a judge who at the time of retirement did not provide notice under section 7257 of this title of availability for service in a recalled status, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.*

(iii) *In the case of a judge who was a recall-eligible retired judge under section 7257 of this title and was removed from recall status under subsection (b)(3) of that section, the retired pay of the judge shall be the pay of the judge at the time of the removal from recall status.*

* * * * *

(f)(1) * * *

(3)(A) **A cost-of-living adjustment provided by law in annuities payable under civil service retirement laws shall apply to retired pay under this section only in the case of retired pay computed under [paragraph (2) of subsection (c)] paragraph (1)(A)(i) or (2) of subsection (c).**