

## Calendar No. 95

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SENATE

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### HIRING HEROES ACT OF 2011

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JULY 18, 2011.—Ordered to be printed

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Mrs. MURRAY, from the Committee on Veterans' Affairs,  
submitted the following

### R E P O R T

[To accompany S. 951]

The Committee on Veterans' Affairs (hereinafter, "the Committee"), to which was referred the bill (S. 951), to amend titles 5, 10, and 38, United States Code (hereinafter, "U.S.C."), to improve the provision of Federal transition, rehabilitation, vocational, and unemployment benefits to members of the Armed Forces and 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 11, 2011, Committee Chairman Patty Murray introduced S. 951, the proposed "Hiring Heroes Act of 2011." Senators Akaka, Baucus, Begich, Boxer, Brown of Massachusetts, Brown of Ohio, Casey, Coons, Leahy, Murkowski, Rockefeller, Sanders, and Tester were original cosponsors. Later, Senators Bennet, Cardin, Durbin, Kerry, Klobuchar, Kohl, Levin, McCaskill, Menendez, Reed, Schumer, Snowe, Stabenow, Udall of New Mexico, and Whitehouse were added as cosponsors. S. 951, as introduced, would amend titles 5, 10, and 38 to improve the provision of Federal transition, rehabilitation, vocational, and unemployment benefits to members of the Armed Forces and veterans, and for other purposes. The bill was referred to the Committee.

On May 26, 2011, Senator Robert Casey, Jr., introduced S. 1104, the proposed "Veteran Transition Assistance Program Audit Act of 2011." S. 1104, as introduced, would require the Department of Labor (hereinafter, "DOL") to enter into a contract for audits of the Transition Assistance Program (hereinafter, "TAP") not less often

than once every three years. The bill was referred to the Committee.

#### COMMITTEE HEARING

On June 8, 2011, the Committee held a hearing on pending legislation, including S. 951 and S. 1104. Testimony was offered by: Michael Cardarelli, Principal Deputy Under Secretary for Benefits, Veterans Benefits Administration, Department of Veterans Affairs (hereinafter, "VA"); John McWilliam, Deputy Assistant Secretary, Veterans' Employment and Training Service, DOL; Jeff Steele, Assistant Legislative Director, The American Legion; Joseph A. Violante, National Legislative Director, Disabled American Veterans; and Raymond Kelley, Director, National Legislative Service, Veterans of Foreign Wars of the United States.

#### COMMITTEE MEETING

After carefully reviewing the testimony from the foregoing hearing, the Committee met in open session on June 29, 2011, to consider, among other legislation, an amended version of S. 951, consisting of provisions from S. 951 as introduced and provisions from the other legislation noted above. The Committee voted, without dissent, to report favorably S. 951 as amended to the Senate.

#### SUMMARY OF S. 951 AS REPORTED

S. 951 as reported (hereinafter, "the Committee bill") is summarized below:

Section 1 would provide a short title.

Section 2 would extend for two years the authority of the Secretary of Veterans Affairs (hereinafter, "the Secretary") to provide rehabilitation and vocational benefits to members of the Armed Forces with severe injuries or illnesses.

Section 3 would expand the authority of the Secretary to pay employers for providing on-job training to veterans who have not yet been rehabilitated to the point of employability.

Section 4 would provide training and rehabilitation for veterans with service-connected disabilities who have exhausted their rights to unemployment benefits under State and Federal law and exhausted entitlement to VA rehabilitation programs.

Section 5 would require VA to conduct an assessment and follow-up on veterans who participate in VA training and rehabilitation programs.

Section 6 would require mandatory participation in TAP by separating members of the Armed Forces, with certain limited exceptions.

Section 7 would require that DOL follow-up with veterans who participated in TAP to ascertain their employment status. Section 7 would also require DOL to enter into a contract for audits of TAP not less often than once every three years.

Section 8 would establish a collaborative veterans' training, mentoring, and placement program between nonprofit organizations and DOL.

Section 9 would require the Department of Defense (hereinafter, "DOD"), VA, and DOL to enter into a contract to study and identify equivalencies between military occupational specialty (hereinafter,

“MOS”) skills and the qualifications required for various positions of civilian employment. It would also require that the participants in TAP be provided with individual assessments of any civilian positions for which they may be qualified based upon their MOS skills.

Section 10 would permit the Federal Government to expedite Federal employment for transitioning servicemembers and requires the Office of Personnel Management (hereinafter, “OPM”) to designate agencies to provide employment assistance to servicemembers separating from active duty and to coordinate such assistance with TAP.

Section 11 would require DOL to conduct outreach to certain veterans receiving unemployment compensation and provide them with assistance in finding employment.

Section 12 would authorize DOD to establish a pilot program for providing work experience with civilian employees and contractors of DOD to certain servicemembers on terminal leave.

Section 13 would require DOL to conduct a demonstration project on credentialing and licensing for the purpose of facilitating the seamless transition of members of the Armed Forces from service on active duty to civilian employment. The section would also require DOL, in consultation with DOD and VA, to study and report upon the costs incurred by DOD to train servicemembers for MOSs and by VA and DOL for employment-related assistance to veterans.

Section 14 would authorize DOD and the Department of Homeland Security (hereinafter, “DHS”) to permit participation by certain servicemembers in apprenticeship programs designed to provide the education, training, and services necessary for such servicemembers’ transition to meaningful employment and economic self-sufficiency.

Section 15 would extend VA’s authority to levy a fee for certain guaranteed housing loans.

#### BACKGROUND AND DISCUSSION

*Sec. 2. Two-year extension of authority of Secretary of Veterans Affairs to provide rehabilitation and vocational benefits to members of the Armed Forces with severe injuries or illnesses.*

Section 2 of the Committee bill, which is derived from S. 951 as introduced, would extend for a period of two years VA’s authority to provide rehabilitation and vocational benefits to certain severely wounded members of the Armed Forces.

*Background.* Under current law, and pursuant to section 1631 of the Wounded Warrior Act (title XVI of Public Law 110–181; 10 U.S.C. 1071 note), VA’s authority to provide rehabilitation and vocational benefits to members of the Armed Forces with severe injuries or illnesses will expire on December 31, 2012.

*Committee Bill.* Section 2 of the Committee bill would amend section 1631(b)(2) of the Wounded Warrior Act by extending through December 31, 2014, VA’s authority to provide rehabilitation and vocational benefits to certain severely wounded active-duty servicemembers in the same manner as provided to veterans.

It is the Committee’s view that a two-year extension of VA’s authority is necessary to ensure that severely wounded active-duty

servicemembers have continued and uninterrupted access to rehabilitation and vocational benefits.

*Sec. 3. Expansion of authority of Secretary of Veterans Affairs to pay employers for providing on-job training to veterans who have not been rehabilitated to point of employability.*

Section 3 of the Committee bill, which is derived from S. 951 as introduced, would expand VA's current authority to incentivize on-job training of veterans with service-connected disabilities by permitting VA to compensate employers to provide on-job training to veterans who have not been fully rehabilitated.

*Background.* Under current law, section 3116 of title 38, U.S.C., VA is authorized to promote the development and establishment of employment and training for veterans who have participated in certain rehabilitation programs, for veterans with service-connected disabilities, and for other qualifying veterans. The law authorizes VA to make payments to employers for providing on-job training to veterans who have been rehabilitated to the point of employability.

*Committee Bill.* Section 3 of the Committee bill would amend section 3116 of title 38, by striking the requirement that veterans be rehabilitated to the point of employability before VA is authorized to make payments to employers for providing on-job training.

This change will enable VA to incentivize employers to provide training and employment opportunities to a broader number of veterans and allow veterans to obtain on-job training and experience while they are still in rehabilitation.

*Sec. 4. Training and rehabilitation for veterans with service-connected disabilities who have exhausted rights to unemployment benefits under State law.*

Section 4 of the Committee bill, which is derived from S. 951 as introduced, would provide up to an additional 24 months of vocational rehabilitation and employment (hereinafter, "VR&E") services to veterans who have exhausted State or Federally-provided unemployment benefits.

*Background.* According to the U.S. Bureau of Labor Statistics' (hereinafter, "BLS") report entitled, *Employment Situation of Veterans—2010*, veterans with service-connected disabilities are statistically less likely to participate in the labor force than veterans without such disabilities. For example, among veterans who served in the Gulf War II era (any veteran who served in the military at any time since September 2001), one in four reported having a service-connected disability. Of these veterans, only 81 percent reported participating in the labor force, as compared to 86.2 percent of their non-disabled peers.

*Committee Bill.* Section 4 of the Committee bill would amend section 3102 of title 38, U.S.C., to entitle certain veterans, who have completed a rehabilitation program, as set forth under chapter 31, to additional rehabilitation programs if they meet certain requirements.

Under the Committee bill, a person who has completed a chapter 31 rehabilitation program would be entitled to an additional rehabilitation program if the person meets the current requirements for entitlement to a chapter 31 rehabilitation program and has, under State or Federal law, exhausted all rights to regular unemployment

compensation with respect to a benefit year, has no rights to regular compensation with respect to a week, is not receiving compensation with respect to such week under the unemployment compensation law of Canada, and begins such additional rehabilitation program within six months of the date of such exhaustion. Under this section, a person would be considered to have exhausted rights to regular unemployment compensation under State law when no payments of regular unemployment compensation may be made under such law because the person has received all regular unemployment compensation available based on employment or wages during a base period, or such person's rights to compensation have been terminated by reason of the expiration of the benefit year.

Section 4 would amend section 3105 of title 38, U.S.C., to allow for up to 24 months of additional rehabilitation for a veteran who meets the requirements of this section.

In the Committee's opinion, the troubling data that suggests the difficulty that service-connected veterans have in maintaining employment underscores the continued need to provide veterans with service-connected disabilities with the training and rehabilitation they need to successfully enter the labor force. It is the Committee's intent that this section would provide an additional resource to qualifying veterans who are not yet able to enter the labor force and rely upon rehabilitation programs to build skills needed to succeed in the workforce.

*Sec. 5. Assessment and follow-up on veterans who participate in Department of Veterans Affairs training and rehabilitation for veterans with service-connected disabilities.*

Section 5 of the Committee bill, which is derived from S. 951 as introduced, would require VA to contact any veteran who participated in, or completed, a rehabilitation program under chapter 31 of title 38, U.S.C., including the VR&E program, at least two times in the year following his or her participation in the rehabilitation program to ascertain the veteran's employment status and the program's effectiveness.

*Background.* Currently, title 38, U.S.C., does not impose upon VA an affirmative obligation to ascertain the employment status of a veteran who participated in, or completed, a rehabilitation program as set forth under chapter 31. Nor does title 38, U.S.C., obligate VA to assess such a rehabilitation program. Instead, section 3106(f) of title 38, U.S.C., requires only that:

In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Secretary shall assign a Department of Veterans Affairs employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 3117 of this title) and assistance under this chapter to such veteran.

*Committee Bill.* Section 5 of the Committee bill would add a new subsection to section 3106, requiring that, for each rehabilitation program pursued by a veteran under chapter 31, VA shall contact the veteran not later than 180 days after the date on which the

veteran completes his or her rehabilitation program or terminates participation in the program. The new subsection mandates that the Secretary contact the veteran not less frequently than once every 180 days for a period of one year to ascertain the employment status, to assess the effectiveness of the rehabilitation program in reaching the veteran's career goals, and to ascertain the level of satisfaction experienced by each veteran who received services under VR&E.

This section clarifies the scope of VA's responsibility under section 3106 and ensures that VA will conduct appropriate follow-up regarding the employment status and satisfaction of any veteran participating in a rehabilitation program under chapter 31. Given the high unemployment rates for veterans with service-connected disabilities, the Committee believes such follow-up by VA may allow for important and necessary programmatic adjustments to ensure the quality of services provided. Such follow-up may also be an important and necessary step towards achieving a meaningful reduction in the veteran unemployment rate.

*Sec. 6. Mandatory participation of members of the Armed Forces in the Transition Assistance Program of the Department of Defense.*

Section 6 of the Committee bill, which is derived from S. 951 as introduced, would require that all servicemembers separating from the Armed Forces attend, and participate in, TAP prior to their separation, with certain limited exceptions.

*Background.* According to the BLS, in 2010 the unemployment rate for young male veterans, ages 18–24, who served over the past decade outpaced that of non-veterans, 21.9 percent to 19.7 percent. By February 2011, the unemployment rate for young veterans, ages 20–24, had grown to an unprecedented 27 percent. During that month, more than 1 in 4 young veterans were unable to find employment. These statistics underscore the challenging employment landscape for veterans.

Under current law, section 1142 of title 10, U.S.C., DOD is required to provide pre-separation counseling to members of the Armed Forces who are leaving active duty. Pursuant to this requirement, DOD has delegated to each of the individual services the responsibility to design and implement a pre-separation counseling program. The pre-separation counseling courses that the services have developed are generally only a couple of hours in length and cover very generally some of the required topics, the list of which is contained in section 1142.

Additionally, section 1144 of title 10, U.S.C., requires an inter-agency program known as the Transition Assistance Program, which offers more in-depth training on benefits, employment, and other subjects. TAP is delivered via a partnership between DOD, DOL's Veterans' Employment and Training Service (hereinafter, "VETS"), VA, and DHS. TAP includes a wide variety of employment-related training lessons as well as a VA benefits briefing, and the Disabled Transition Assistance Program for wounded or injured servicemembers.

With the unemployment rate for young veterans as high as 27 percent, a comprehensive and effective transition program may be

a critical resource for servicemembers separating from the Armed Forces.

Under current law, participation in TAP by servicemembers is encouraged but not mandatory. Only the Marine Corps has elected to require its members to participate in TAP. According to Fiscal Year 2010 data provided by the Army, only 53.6 percent of active duty junior enlisted soldiers, those with the ranks of private through specialist, who participated in pre-separation counseling went beyond that course and also participated in TAP. For active duty junior officers, those with the ranks of second lieutenant through captain, participation was 35.8 percent. In the Army Reserve, both junior enlisted and junior officers participated in TAP at an incredibly low rate of approximately 1.7 percent.

These low participation rates are especially of concern as junior servicemembers tend to be those most in need of the services provided by TAP and the benefits available through VA. For many, skills such as writing resumes or interviewing have never been needed or learned before, and not having such skills or knowing from where to learn them puts those individuals at a serious disadvantage when attempting to enter and compete in the civilian employment market.

*Committee Bill.* Section 6 of the Committee bill would amend section 1144(c) of title 10, U.S.C., by requiring that all servicemembers transitioning from active duty participate in TAP, with certain limited exceptions.

Specifically, section 6 would amend section 1144(c) by requiring that DOD and DHS ensure the participation in TAP of all servicemembers eligible for assistance under the program.

The section would also authorize DOD and DHS, under regulations prescribed by both Departments, to waive participation with respect to such groups or classifications of members as DOD and DHS consider appropriate after consultation with DOL and VA. The scope of this authorization is to be construed narrowly. It is the Committee's intent that any waiver would be limited to general officers or flag officers or to certain members of the National Guard or the reserve components who were voluntarily or involuntarily recalled to active duty for a period not-exceeding 365 days.

Revisions are pending by DOL, VA, and DOD to the applicable components of TAP. Those revisions would make the program focused and responsive to individual needs and would make the program modular in order to allow individuals to be assessed for specific needs and subsequently receive training in those areas. It is the Committee's intent that, in light of this effort, all servicemembers participate in at least the most basic components of TAP and that waivers not be granted except for those who are extraordinarily qualified or for those for whom TAP would be unnecessary or inappropriate due to other extraordinary circumstances.

*Sec. 7. Follow-up and audits of Transition Assistance Program.*

Section 7 of the Committee bill, which is derived from S. 951 and S. 1104 as introduced, would require DOL to contact each veteran who participated in TAP not later than six months after the date on which that veteran separated from service in the Armed Forces to ascertain the veteran's employment status, and not less frequently than every three months thereafter for the remainder of

the year. Section 7 would also require DOL to enter into a contract for audits of TAP not less often than once every three years.

*Background.* Currently, DOL is not required to follow-up with servicemembers who participated in TAP and have since left active duty. DOL is also not required to track the employment status of TAP participants within one year following their separation from the Armed Forces. Consequently, there is no historical outcome data with which to evaluate the effectiveness of TAP as it relates to job placement for separating servicemembers.

Additionally, under current law, there is no audit requirement for TAP.

*Committee Bill.* Section 7 would require DOL to engage in follow-up with veterans who participated in TAP and track veterans' employment status. Section 7 would require DOL to contact each individual participating in TAP not later than 180 days after the date on which that individual separates from the Armed Forces, and not less frequently than once every 90 days thereafter for a period of 180 days to ascertain the individual's employment status.

By requiring DOL to engage in follow-up with veterans regarding their employment status, the Committee believes that VA, DOL, and DOD will be better able to track veteran employment status, evaluate the efficacy of TAP, and solicit veterans' feedback to improve TAP.

Section 7 of the Committee bill would also require that DOL enter into a contract for audits of TAP. DOL would be required to enter into such contract with a private organization not affiliated with the program and ensure that the audits are conducted not less often than once every three years.

Under this section, the organization conducting the audit would be required to measure the effectiveness of TAP and identify any measures needed to improve the effectiveness of the program. At the conclusion of each audit, the organization would be required to prepare a report containing the findings resulting from the audit and recommendations for improving the effectiveness of the program. The section would direct the organization to submit the report to DOL, the other Departments referred to in section 1144 of title 10, the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate, and the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives.

Finally, under this section DOL, in conjunction with VA and DOD, would be required to review the report and implement any measures needed to improve the effectiveness of TAP.

*Sec. 8. Collaborative veterans' training, mentoring, and placement program.*

Section 8 of the Committee bill, which is derived from S. 951 as introduced, would establish a competitive grant program for non-profit organizations that provide mentoring and training to veterans.

*Background.* High unemployment for young veterans underscores the need for innovative partnerships, programs, and organizations that prepare veterans to successfully transition from active duty service to civilian employment.

One such example of an innovative organization is the non-profit Veterans Green Jobs. At the Committee's April 13, 2011, hearing, Army veteran and Director of Veterans Development for Veterans Green Jobs, Garrett Reppenhagen, described how his organization engages, transitions, and connects military veterans with meaningful employment opportunities that serve their communities and environment. Mr. Reppenhagen stated: "[O]ur successes have been accomplished by partnering with a wide array of government, private and nonprofit entities. We have developed an array of formal partnerships and teaming agreements with businesses, community colleges, 4-year educational institutions and other non-profits."

*Committee Bill.* Section 8 of the Committee bill would foster and sustain the critical work performed by non-profit organizations, like Veterans Green Jobs, and build upon public-private partnerships that support veterans transitioning to civilian employment. The section would amend chapter 41 of title 38, U.S.C., by inserting after section 4104 a new section authorizing DOL to award grants to eligible non-profit organizations to provide training and mentoring for eligible veterans who seek employment. Under this provision, DOL shall award grants to not more than three organizations, for periods of two years.

The section would require DOL to ensure that the recipients of such grants collaborate with the appropriate disabled veterans' outreach program specialists, the appropriate local veterans' employment representatives, and the appropriate State boards and local boards for the areas to be served by the grant recipients. DOL would also be required to ensure that grant recipients facilitate placement in employment that leads to economic self-sufficiency for veterans who have completed training.

To be eligible for such grants, a non-profit organization must submit an application to DOL. The application must include information describing how the organization will engage in the collaboration discussed herein, provide training that facilitates job placement for veterans, and provide mentorship for each veteran receiving training.

Section 8 would also require DOL to prepare and submit to the appropriate committees of Congress a report that describes the process for awarding grants, the recipients of such grants, and the collaboration described herein. DOL must provide this report not later than six months after the date of enactment of the Hiring Heroes Act of 2011.

Additionally, not later than 18 months after the date of enactment, DOL would be required under this section to conduct an assessment of the performance of the grant recipients, disabled veterans' outreach program specialists, and local veterans' employment representatives in carrying out activities under this section. Such an assessment would include collecting information on the numbers of veterans who applied for training under this section, veterans who entered the training, veterans who completed the training, veterans who were placed in meaningful employment under this section, and veterans who remained in such employment as of the date of the assessment. DOL would also be required to submit to the appropriate committees of Congress a report that includes a description of how the grant recipients used the funds made available under this section, the results of the assessment,

and DOL recommendations as to whether amounts should be appropriated to carry out this section for Fiscal Years after 2013.

Section 8 also would authorize appropriations of \$4,500,000 for the period consisting of Fiscal Years 2012 and 2013.

*Sec. 9. Individualized assessment for members of the Armed Forces under transition assistance on equivalence between skills developed in military occupational specialties and qualifications required for civilian employment with the private sector.*

Section 9 of the Committee bill, which is derived from S. 951 as introduced, would require DOD, VA, and DOL to jointly contract for a study to identify equivalencies between MOS-related skills and civilian employment. This section would also require DOD to ensure that all TAP participants receive an individual assessment of civilian positions for which they may be qualified based upon the study.

*Background.* Today, DOD provides some assessment of servicemembers' MOS-related skills; however, the comparison of military-acquired skills and civilian requirements is not robust or detailed. In many cases, the expectation has been that occupations with similar titles, such as military police and police officer, were equivalent and the servicemember would be able to simply begin an equivalent job in the civilian sector. However, this failed to take into account the myriad of certification and licensing requirements that military training has not provided. Additionally, the military has been unable to identify translatable skills or equivalent civilian occupations for several fields, such as the infantry. The result is many servicemembers separate from active duty unable to effectively translate their military experience to an equivalent civilian skill-set.

*Committee Bill.* Section 9 of the Committee bill would require VA, DOD, and DOL to select a contractor to conduct a study to identify any equivalencies between the skills developed by members of the Armed Forces through various MOSs and the qualifications for various positions of civilian employment in the private sector. This section would also require Federal Government departments and agencies to cooperate with the contractor.

Following completion of the study, the contractor would be required to submit a report to VA, DOD, and DOL. In turn, the section directs the Departments to jointly submit to Congress the report, along with such comments on the report as the Departments jointly consider appropriate.

Section 9 would also require DOD to ensure that each member of the Armed Forces participating in TAP receives an individualized assessment of the various positions of civilian employment for which such member may be qualified as a result of the member's MOS. DOD would be required to transmit the individualized assessment to VA and DOL for use by either Department when providing employment related assistance during the member's transition from military service to a civilian career. The individualized assessment may also be used to otherwise facilitate and enhance a member's transition from military service to civilian life.

It is the Committee's intent that the Departments will utilize the information developed pursuant to this section to more closely align military training to meet civilian-sector requirements in addition to

military requirements and that the Departments will negotiate with applicable private sector entities to increase the acceptance of military training as being sufficient for applicable licenses and certifications.

*Sec. 10. Appointment of honorably discharged members and other employment assistance.*

Section 10 of the Committee bill, which is derived from S. 951, would allow the Federal Government to directly appoint a transitioning servicemember to a position in the civil service during the 180-day period after that servicemember's honorable discharge. The section would also direct OPM to designate Federal agencies that shall establish programs to provide employment assistance to servicemembers separating from the Armed Forces. These programs would be required to coordinate with TAP.

*Background.* Chapter 33 of title 5, U.S.C., sets forth the examination, certification, and appointment process for individuals into the civil and competitive services in the Executive branch. Section 3301 of title 5 affords the President substantial authority and discretion to "prescribe such regulations for the admission of individuals into the civil service in the Executive branch as will best promote the efficiency of that service \* \* \*."

In 2009, President Obama issued Executive Order 13518, establishing the Veterans Employment Initiative (hereinafter, "VEI"). The order created the Council on Veterans Employment to advise and assist the President on improving employment opportunities for veterans in the Federal Government. Twenty-four agencies are represented on the Council. Each has a Veterans Employment Program Office (hereinafter, "VEPO"). The mission of these offices is to support the VEI and provide employment assistance to veterans at the agency level. The VEPOs are intended to provide a full-range of support to transitioning servicemembers and veterans.

Several hiring authorities that may encourage and facilitate veterans' employment in the Federal Government are currently available to agencies. In his April 13, 2011, testimony before the Committee, the Director of OPM, John Berry, identified two such authorities:

[T]he Veterans Recruitment Act authorizes non-competitive appointment for eligible veterans to positions up to the GS-11 level, or equivalent. The Veterans Employment Opportunities Act (VEOA) can be used to appoint those entitled to veterans' preference or veterans who have at least 3 years of active military service to permanent positions in the competitive civil service.

Director Berry also outlined the Federal Government's continuing efforts to promote a seamless transition for servicemembers from active duty to the civil service.

More than two years ago, we embarked on a broad initiative to reform the entire Federal hiring process. Along the way, we have attempted to address broad systemic problems such as reducing long job announcements and allowing resumes and cover letters as applications. However, where appropriate, we have taken on targeted approaches, as with veterans' employment, to improving the recruit-

ment and hiring of talented men and women to represent the diversity of our Nation and our workforce. This intersection of these various reform initiatives is creating a veterans-friendly employment environment that is unmatched in the private sector.

However, despite efforts of OPM to increase veteran representation in Federal employment, only 2,000 more veterans were hired in 2010 than the year prior.

While resources exist for veterans seeking to transition into the civil service, servicemembers still on active duty are often unable to access such resources because they are not yet veterans. At present, servicemembers must wait until they have fully separated from active duty to be eligible for OPM civil service employment initiatives. Consequently, these servicemembers are unable to transition seamlessly from active duty to the civil service.

Likewise, under sections 2108 and 3309(1) of title 5, U.S.C., a veteran must have a disability rating to establish ten-point preference eligibility for a service-connected disability. However, chronic delays in the adjudication of claims through VA's claims processing system prevent certain veterans who may be eligible for the ten-point preference from realizing such assistance when applying for Federal employment. Such delays cause an unnecessary disruption in the transition from active duty to the civil service.

*Committee Bill.* Section 10 of the Committee bill would amend chapter 33 of title 5, U.S.C., by creating a new section, 3330d, which would allow the head of an Executive agency to appoint an honorably discharged servicemember to a position in the civil service, without regard to certain civil service authorities, within the 180 days following such member's separation from service.

Section 10 would also require OPM to designate agencies to establish a program to provide employment assistance to members of the Armed Forces who are being separated from active duty and to ensure such programs are coordinated with DOD via TAP. Each designated agency would be required to consult with OPM and act through its VEPO in order to establish the employment assistance program, which would include assistance to members of the Armed Forces seeking employment with that agency. Under the program, the agency would also provide servicemembers with information regarding its employment assistance program and would promote the recruitment, hiring, training and development, and retention of such servicemembers and veterans by the agency. If a designated agency does not have a VEPO, the agency would be required to select an appropriate office of the agency to carry out the employment assistance program. For purposes of this section, it would be consistent with the Committee's intent for OPM to designate the current 24 agencies with VEPOs as those that would initially take part in this new program.

Section 10 would not affect any right or remedy set forth in sections 3330a through 3330c of title 5, U.S.C., nor would the section affect the probationary period authorized in section 3321 of title 5, U.S.C. Finally, the section would not alter the selective service requirement set forth in section 3328 of title 5, U.S.C.

The Committee expects that the enactment of this section would further support servicemembers' seamless transition from the Armed Forces into the civil service.

The Committee recognizes that certain servicemembers are unable to receive a ten-point preference because of VA's lengthy claims processing system. The Committee believes that it is extremely unfortunate that disabled veterans are unable to benefit from assistance currently available to them under the law because of VA's inability to process claims in a timely manner. The Committee intends that this direct hiring authority would benefit these individuals by giving them assistance as soon as practicable, rather than when VA is able to adjudicate his or her claim.

Moreover, a seamless transition benefits not only servicemembers, but also the Federal Government. It means that a servicemember can leverage the skills he or she gained while on active duty as a member of the civil service, thus ensuring the Federal Government's investment in training is fully realized. The Committee intends that, for those who are currently in Federal service, as active duty servicemembers, and who are qualified and wishing to extend their Federal service, by moving to an Executive agency, this section will assist in that effort.

*Sec. 11. Outreach program for certain veterans receiving unemployment compensation.*

Section 11 of the Committee bill, which is derived from S. 951, would require DOL to conduct outreach to recently separated veterans who have been in receipt of unemployment compensation for longer than 105 days, in order to provide employment assistance.

*Background.* According to the Employment and Training Administration (hereinafter, "ETA"), 36,716 newly discharged veterans claimed unemployment benefits during the week ending June 11, 2011, an increase of 1,124 from the prior week. During that same week, there were 2,584 initial claims for benefits by newly discharged veterans, a decrease of 134 from the preceding week.

*Committee Bill.* Section 11 of the Committee bill would require DOL to carry out a program through VETS, the disabled veterans' outreach program specialists employed under section 4103A of title 38, U.S.C., and local veterans' employment representatives employed under section 4104 of such title, to provide outreach to recently separated veterans who have been in receipt of unemployment compensation for more than 105 days.

The Committee believes employment assistance and outreach by DOL to veterans in receipt of unemployment compensation is an appropriate measure given the persistent rate of high unemployment for young veterans.

*Sec. 12. Department of Defense pilot program on work experience for members of the Armed Forces on terminal leave.*

Section 12 of the Committee bill, which is derived from S. 951 as introduced, would authorize DOD to establish a pilot program to provide certain servicemembers on terminal leave work experience with civilian employees and contractors of DOD.

*Background.* Servicemembers on terminal leave are uniquely positioned to use such leave time to prepare for their transition into civilian employment.

*Committee Bill.* Section 12 of the Committee bill would authorize DOD to establish a pilot program to assess the feasibility and advisability of providing to certain servicemembers on terminal leave

work experience with civilian employees and contractors of DOD. The program would be designed to facilitate a covered servicemember's transition from active duty into the civilian labor market.

Under this section, an eligible servicemember would be any individual who (1) is a member of the Armed Forces; (2) DOD expects to be discharged or separated from service in the Armed Forces and is on terminal leave; (3) DOD determines has skills that can be used to provide services to DOD that are considered critical to the success of its mission; and (4) DOD determines might benefit from exposure to the civilian work environment in order to facilitate the individual's transition from service in the Armed Forces to employment in the civilian labor market.

The pilot program would be carried out during the two-year period beginning on the date of the commencement of the pilot program.

Not later than 540 days after the date of the enactment of this section, DOD would be required to submit to the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate, and to the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives, a report on the pilot program. The report would include the findings of DOD with respect to the feasibility and advisability of providing such work experience to qualifying servicemembers.

*Sec. 13. Enhancement of demonstration program on credentialing and licensing of veterans.*

Section 13 of the Committee bill, which is derived from S. 951 as introduced, would require DOL to carry out a demonstration project on credentialing for five MOSs for the purpose of facilitating a seamless transition of members of the Armed Forces from active duty to civilian employment. The section would also require DOL, in consultation with DOD and VA, to study and report upon the costs incurred by DOD to train servicemembers for MOSs and by VA and DOL for employment-related assistance to veterans.

*Background.* Servicemembers continue to face barriers when attempting to draw upon their military training to satisfy civilian licensure or credentialing requirements. In his testimony before the Committee on April 13, 2011, former Navy Corpsman Eric Smith described how, despite his unique skills and qualifications as a senior corpsman, he has been unable to draw upon such experience to secure comparable civilian employment.

During my deployment to Iraq, I served as the primary corpsman for an infantry platoon in the 3rd Battalion, 5th Marine Regiment. In a combat zone, a platoon's corpsman is their medical lifeline, performing duties that in the civilian world are normally left to a Physician's Assistant. In this capacity, my medical and leadership training were unparalleled.

\* \* \* \* \*

In 2009 [after having left active duty], I applied for a job as a Certified Nursing Assistant \* \* \*. My experience in numerous medical disciplines and procedures impressed the three nurses who interviewed me for the position. When they recommended me to the doctors in charge of

the clinic, I was confident that I would get the job. However, I never received a call back.

Looking back, I'm almost positive that despite my knowledge and experience, I was ultimately disqualified from the position for lack of civilian equivalent certifications. I was disappointed by this outcome. However, I was more frustrated by the reality that graduation from Naval Hospital Corps school and years worth of experience provided me with no certifications that translated into the civilian world.

Drawing upon Mr. Smith's story, Rear Admiral McCreary argued in his April 13, 2011, testimony before the Committee that it is clear "a better understanding of how military certifications translate to civilian professional certifications should be addressed with State governments."

Under current law, section 4114 of title 38, U.S.C., DOL, through the Assistant Secretary of Veterans Employment and Training (hereinafter, "ASVET"), is authorized to carry out a demonstration project on credentialing for the purpose of facilitating the seamless transition of servicemembers from active duty to civilian employment. The section provides for the selection of not less than ten MOSs for purposes of the demonstration project. The selected specialties must involve a skill or set of skills required for civilian employment in an industry with high growth or high worker demand.

After selection of the ten MOSs, DOL is directed to consult with Federal, State, and industry stakeholders to identify requirements for civilian credentials, certifications, and licenses that require a skill or set of skills also required by an MOS selected under this section. DOL must analyze these requirements to determine which may be satisfied by the skills, training, or experience acquired by servicemembers with the applicable MOS.

Following this determination, DOL is directed to cooperate with the appropriate government and industry stakeholders to reduce or eliminate any barriers to providing a civilian credential, certification, or license to a veteran who acquired any skill, training, or experience while serving as a member of the Armed Forces with an MOS selected under this section that satisfies the Federal and State requirements for the credential, certification, or license.

Unfortunately, this program was never carried out because funding for the pilot was authorized only by utilizing unobligated funds that are appropriated in accordance with the authorization set forth in section 4106 of title 38, U.S.C., for the administration of job counseling, training, and placement services for veterans.

*Committee Bill.* Section 13 of the Committee bill would amend section 4114 by mandating that DOL carry out the demonstration project on credentialing. Section 4114 would also be amended to require that the ASVET act in consultation with the Assistant Secretary for Employment and Training when selecting the specialties. The number of specialties to be selected would also be reduced from ten to five.

The section would also strike subsections (d) through (h) of section 4114, concerning a task force, consultation, contract authority, and duration of the program described under current law. New subsection (d) would require the demonstration project to be car-

ried out within a two-year period beginning on the date of the enactment of this section.

Section 13 would also require, not later than 180 days after the enactment of the Committee bill, that the ASVET, in consultation with DOD and VA, study the costs incurred by DOD to train servicemembers for MOSs compared to those incurred by VA and DOL for employment-related assistance to veterans. The study would include an analysis of the costs incurred by VA to provide educational assistance to veterans regarding civilian credentialing and licensing and the costs associated with assistance, vocational training, and counseling to unemployed veterans who were trained in an MOS.

Within the 180-day period after the enactment of the Committee bill, the ASVET would also be required to submit to Congress a report on the study carried out. Required provisions of the report would include the findings of the Assistant Secretary with respect to the study and an estimate of the savings that would be realized by VA and DOL if DOD were to tailor its MOS training(s) to satisfy Federal, State, and/or local requirements for certain credentials, certifications, or licenses.

*Sec. 14. Improved access to apprenticeship programs for members of the Armed Forces who are being separated from active duty or retired.*

Section 14 of the Committee bill would amend section 1144 of title 10, U.S.C., to authorize DOD and DHS to permit participation by certain servicemembers in an apprenticeship or pre-apprenticeship program designed to provide the education, training, and services necessary for such servicemembers' transition to meaningful employment and economic self-sufficiency.

*Background.* Under current law, TAP, which is authorized pursuant to section 1144 of title 10, furnishes counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the Armed Forces who are being separated from active duty and the spouses of such members. However, it is not explicit what types of training are authorized to facilitate a servicemember's transition.

*Committee Bill.* Section 14 of the Committee bill would amend section 1144 of title 10, by adding at the end a new subsection that would authorize DOD and DHS to permit a member of the Armed Forces eligible for assistance under the section to participate in a pre-apprenticeship program or an apprenticeship program.

Such a program would be required to be registered under the Act of August 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.). The section would also authorize DOD and DHS to permit an eligible member to participate in a pre-apprenticeship program that provides credit toward a program registered under the Act of August 1937. Any such apprenticeship or pre-apprenticeship program would be required to provide participating servicemembers with the education, training, and services necessary to transition to meaningful employment that leads to economic self-sufficiency.

The Committee believes that providing servicemembers with additional training opportunities will help facilitate a successful transition from active duty to civilian life.

*Sec. 15. Extension of loan guaranty fee for certain subsequent loans.*

Section 15 of the Committee bill would extend VA's authority to levy a loan guaranty fee for certain subsequent guaranteed housing loans.

*Background.* Under VA's home loan guaranty program, VA may guarantee a loan made to eligible servicemembers, veterans, reservists, and certain un-remarried surviving spouses for the purchase (or refinancing) of houses, condominiums, and manufactured homes.

Section 3729(b)(2) of title 38, U.S.C., sets forth a loan fee table that lists funding fees, expressed as a percentage of the loan amount, for different types of loans.

*Committee Bill.* Section 15 of the Committee bill would amend the fee schedule set forth in section 3729(b)(2) of title 38 by extending VA's authority to collect certain fees and by adjusting the amount of the fees. Specifically, the section would amend section 3729(b)(2)(B)(ii) by striking "January 1, 2004, and before October 1, 2011" and inserting "October 1, 2011, and before October 1, 2014," and by striking "3.30" both places it appears and inserting "3.00."

The section would also amend section 3729(b)(2)(B)(i) by striking "January 1, 2004" and inserting "October 1, 2011" and by striking "3.00" both places it appears and inserting "3.30." The section would also strike clause (iii) and re-designate clause (iv) as clause (iii). Clause (iii), as re-designated, would be amended by striking "October 1, 2013" and inserting "October 1, 2014."

The practical effect of these changes would be to lower the percentage of the home loan funding fee from 3.3 percent to 3.0 percent beginning on October 1, 2011. The fee is currently scheduled to be reduced to 2.15 percent beginning on October 1, 2011. Beginning on October 1, 2014, rather than the currently scheduled October 1, 2013, the funding fee would be reduced to 1.25 percent.

These amendments would take effect on the later of October 1, 2011, and the date of the enactment of this section.

#### 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 Congressional Budget Office (hereinafter, "CBO"), estimates that, on net, the Committee bill would decrease direct spending by \$227 million over the 2012–2016 period and by \$179 million over the 2012–2021 period.

In addition, CBO estimates that implementing the Committee bill would have a discretionary cost of \$160 million over the 2012–2016 period, assuming appropriation of the necessary amounts. The Committee bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

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

CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, July 7, 2011.

Hon. PATTY MURRAY,  
Chairman,  
Committee on Veterans' Affairs,  
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN:

The Congressional Budget Office has prepared the enclosed cost estimate for S. 951, the Hiring Heroes Act of 2011.

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

Sincerely,

DOUGLAS W. ELMENDORF,  
Director.

Enclosure.

*S. 951, Hiring Heroes Act of 2011*

Summary: S. 951 would affect programs that provide employment services and mortgage guarantees to veterans. If enacted, CBO estimates that, on net, the bill would decrease direct spending by \$227 million over the 2012–2016 period and by \$179 million over the 2012–2021 period.

In addition, CBO estimates that implementing S. 951 would have a discretionary cost of \$160 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting the bill would not affect revenues.

S. 951 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 951 is shown in the following table. The costs of this legislation fall within budget functions 700 (veterans benefits and services) and 050 (national defense).

Table 1.—Estimated Budgetary Effects of S. 951, The Hiring Heroes Act of 2011

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority .....	-72	-62	-111	8	9	-227
Estimated Outlays .....	-72	-62	-111	8	9	-227
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	59	26	27	28	27	166
Estimated Outlays .....	25	34	34	34	33	160

Notes: In addition to the direct spending effects shown here, enacting S. 951 would have additional effects on direct spending beyond 2016 (see Table 2). CBO estimates that total direct spending would decrease by \$179 million over the 2012–2021 period. Components may not add to totals because of rounding.

Basis of estimate: S. 951 would affect a number of veterans programs. This estimate is based on information from the Department of Veterans Affairs (VA), the Department of Defense (DOD), the Department of Labor (DOL), and the U.S. Office of Personnel Management (OPM). For the purposes of this estimate, CBO assumes the bill will be enacted near the beginning of fiscal year 2012, that

the necessary amounts will be appropriated each year, and that outlays will follow historical patterns for similar and existing programs.

### *Direct Spending*

Table 2 summarizes S. 951's effects on direct spending for veterans' housing loan guarantees and veterans' training and rehabilitation programs. In total, CBO estimates that enacting those provisions would reduce direct spending for veterans' programs by \$179 million over the 2012–2021 period.

*Fees for Guaranteed Loans.* Section 15 would increase the fee that VA charges for guaranteeing certain mortgages made to veterans. Under current law, VA guarantees lenders a payment of up to 25 percent of the outstanding loan balance (subject to some limitations on the original loan amount) in the event that a veteran defaults. Such guarantees enable veterans to get better loan terms, such as lower interest rates or smaller down payments. VA charges fees to some veterans for this guarantee to offset the costs of subsequent defaults.

Veterans seeking a loan guarantee who have previously used that benefit must pay an upfront fee equal to 2.15 percent of a loan taken in 2012 or 2013, and 1.25 percent of such loans taken in 2014 or any year thereafter. Section 15 would increase the fee to 3.00 percent for such loans taken in the 2012–2014 period. After 2014, the fee would remain at the current-law rate of 1.25 percent. Raising the fee for the next three years would increase collections by VA, thus lowering the subsidy cost of the loan guarantees and reducing direct spending by \$257 million over the 2012–2014 period, CBO estimates.<sup>1</sup>

Table 2.—Impact of S. 951 on Direct Spending

	By fiscal year, in millions of dollars—												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012– 2016	2012– 2021	
<b>Fees for Guaranteed Loans</b>													
Estimated Budget Authority .....	-73	-66	-118	0	0	0	0	0	0	0	-257	-257	
Estimated Outlays .....	-73	-66	-118	0	0	0	0	0	0	0	-257	-257	
<b>Benefits for Veterans Who Exhaust</b>													
<b>Unemployment Benefits</b>													
Estimated Budget Authority .....	1	3	6	7	8	8	8	8	9	9	25	67	
Estimated Outlays .....	1	3	6	7	8	8	8	8	9	9	25	67	
<b>Employer Incentive Program</b>													
Estimated Budget Authority .....	*	1	1	1	1	1	1	1	1	1	5	11	
Estimated Outlays .....	*	1	1	1	1	1	1	1	1	1	5	11	
<b>Total Changes in Direct Spending</b>													
Estimated Budget Authority .....	-72	-62	-111	8	9	9	9	9	10	10	-227	-179	
Estimated Outlays .....	-72	-62	-111	8	9	9	9	9	10	10	-227	-179	

Notes: \* = less than \$500,000.  
Components may not add to totals because of rounding.

*Benefits for Veterans Who Exhaust Unemployment Benefits.* Section 4 would entitle certain disabled veterans to participate in an

<sup>1</sup>Under the Federal Credit Reform Act of 1990, the subsidy cost of a loan guarantee is the net present value of estimated payments by the government to cover defaults and delinquencies, interest subsidies, or other expenses, offset by any payments to the government, including origination fees, other fees, penalties, and recoveries on defaulted loans. Such subsidy costs are recorded in the budget when the loans are disbursed.

additional program of vocational rehabilitation for up to 24 months. Veterans who have previously completed a program of vocational rehabilitation, and who have exhausted all rights to unemployment benefits, could qualify for the additional assistance, but only if they begin such a program within six months of the expiration of their unemployment benefits. Based on information from VA, CBO estimates that an average of 350 veterans would benefit from this provision each year, with each veteran receiving a total of about \$19,000 in additional training assistance. Over the 2012–2021 period, CBO estimates that providing an additional program of vocational rehabilitation to those veterans would increase direct spending by \$67 million.

*Employer Incentive Program.* Under current law, VA may pay employers up to one-half of a veteran’s salary for direct expenses incurred in providing employment and on-the-job training to disabled veterans who have successfully completed a program of vocational rehabilitation. Section 3 would expand eligibility to disabled veterans who have not completed the program, thus increasing the number of veterans who would be eligible to have such payments made on their behalf. Based on information from VA, CBO estimates that an average of about 140 additional veterans each year would benefit from on-the-job training opportunities resulting from this provision, with each participating employer receiving an average of \$9,700 per veteran.

Included in the estimated 140 veterans per year are about 40 individuals that we expect would withdraw from a current program of vocational rehabilitation if offered employment with on-the-job training. Each of those veterans then would use an estimated \$6,500 less in vocational rehabilitation benefits than he or she would have used under current law. On net, enacting this provision would increase direct spending by \$11 million over the 2012–2021 period, CBO estimates.

*Other Provisions.* The following provisions would affect direct spending, because they would allow certain servicemembers on active duty to receive selected veterans’ readjustment benefits earlier than they would have under current law but those effects would not be significant. CBO estimates that the shift in timing of benefits usage for those individuals would, collectively, increase direct spending by less than \$500,000 over the 2012–2021 period.

- Section 2 would extend for two years VA’s authority to provide rehabilitation and vocational benefits to severely injured servicemembers on active duty. Based on information from VA and DOD, CBO estimates that a small number of those individuals would begin to receive such benefits about three months earlier than they otherwise would have.

- Section 14 would allow active-duty servicemembers who are in the process of separating or retiring from service to participate in apprenticeship programs. Under current law, individuals may receive educational benefits while participating in approved apprenticeship programs. Based on information from VA and DOD, CBO estimates that a small population of individuals participating in apprenticeship programs would begin to receive benefits about four months earlier than they would have under current law.

*Spending Subject to Appropriation*

S. 951 would authorize various programs to provide employment, training, and placement services to veterans and to servicemembers separating from active-duty. CBO estimates that implementing those programs would cost \$160 million over the 2012–2016 period, assuming appropriation of the specified and necessary amounts (see Table 3).

Table 3.—Impact of S. 951 on Spending Subject to Appropriation

	By fiscal year, in millions of dollars—					2012– 2016
	2012	2013	2014	2015	2016	
<b>Outreach and Follow-Up Programs</b>						
Estimated Authorization Level .....	17	20	23	24	24	108
Estimated Outlays .....	17	20	23	24	24	108
<b>Individualized MOS Assessment</b>						
Estimated Authorization Level .....	32	0	0	0	0	32
Estimated Outlays .....	2	6	6	6	6	26
<b>Mandatory Participation in TAP</b>						
Estimated Authorization Level .....	2	3	3	3	3	14
Estimated Outlays .....	2	3	3	3	3	14
<b>Employment Services and Placement Programs</b>						
Estimated Authorization Level .....	5	*	*	*	*	5
Estimated Outlays .....	1	3	1	*	*	5
<b>Reports</b>						
Estimated Authorization Level .....	2	1	1	1	0	4
Estimated Outlays .....	2	1	1	1	0	4
<b>Credentialing and Licensure</b>						
Estimated Authorization Level .....	1	2	0	0	0	3
Estimated Outlays .....	1	1	*	*	0	3
<b>Total Changes in Discretionary Spending</b>						
Estimated Authorization Level .....	59	26	27	28	27	166
Estimated Outlays .....	25	34	34	34	33	160

Notes: \* = less than \$500,000.  
MOS = Military Occupational Specialty, TAP = Transition Assistance Program.  
Components may not add to totals because of rounding.

**Outreach and Follow-Up Programs.** Section 5 would require VA to conduct outreach to certain veterans and to follow up on veterans that participated in a program of vocational rehabilitation. Sections 7 and 11 would require DOL to follow up on all participants in DOD’s Transition Assistance Program (TAP) and all recently separated servicemembers that have received unemployment compensation for ex-servicemembers (UCX) for more than 105 days. Collectively, CBO estimates that those programs would cost \$108 million over the 2012–2016 period, assuming appropriation of the estimated amounts.

**Veterans in Receipt of UCX.** Section 11 would require DOL to establish a program to conduct outreach and provide employment services to veterans who recently separated from uniformed service and who have received UCX for more than 105 days. Based on information from VA and DOL, CBO estimates that about 70,000 veterans each year would be contacted through this program. CBO estimates those efforts would cost about \$45 million over the 2012–2016 period to hire 100 additional employees to conduct this outreach, assuming appropriation of the estimated amounts.

**Veterans Who Participated in DOD’s TAP.** Section 7 would require DOL to determine the employment status of every TAP participant not later than 180 days after separating from uniformed

service and then once every 90 days thereafter for a period of 180 days. Based on information from DOL and DOD, and assuming enactment of section 6 (see discussion below under “Mandatory Participation in TAP”), CBO estimates that DOL would need to contact about 175,000 veterans each year. CBO estimates that it would cost \$39 million to hire the additional staff and about \$2 million to develop and maintain the information technology (IT) system needed to conduct this outreach over the 2012–2016 period, assuming appropriation of the estimated amounts.

*Veterans Who Participated in a Program of Vocational Rehabilitation.* Section 5 would require VA to determine the employment status of veterans who have either completed or terminated a program of vocational rehabilitation and to assess the effectiveness of those programs. Those assessments must be made within 180 days after an individual completes or terminates a program and then once every 180 days for a period of one year. Based on information from VA, CBO estimates that VA would have to hire about 40 additional vocational rehabilitation counselors to conduct this type of follow-up on about 35,000 veterans annually. VA also would have to develop an IT system to track those efforts. CBO estimates that the costs to hire those vocational rehabilitation counselors and to develop and maintain the IT system would total \$21 million and \$1 million, respectively, over the 2012–2016 period, assuming appropriation of the estimated amounts.

*Individualized MOS Assessments.* Section 9 would require DOL, VA, and DOD to conduct a joint study to identify the skills servicemembers develop through their respective military occupational specialties (MOS) and then map those skills to positions in the civilian sector. Upon completion of the study, the Secretary of Defense would be required to provide separating servicemembers with an individualized assessment of the different positions in the civilian sector for which they may be qualified. Based on information from DOD, CBO estimates that about 1,750 different MOSs would need to be studied. CBO estimates that the study would take several years and would cost \$26 million over the 2012–2016 period, assuming appropriation of the estimated amounts.

*Mandatory Participation in TAP.* Under current law, separating servicemembers are not required to participate in the employment and job training workshops provided by DOL as an element of TAP. Section 6 would mandate that all servicemembers separating from active-duty participate in those workshops. (The Secretaries of Defense and Homeland Security would be authorized to waive that requirement for certain individuals.) Under current law, DOL provides employment and job training services to an average of 130,000 separating servicemembers through about 4,100 employment workshops per year. Based on information from DOL and DOD, CBO estimates that under section 6 an additional 45,000 individuals would be required to attend those workshops each year and that DOL would have to hold about 1,400 additional workshops annually to accommodate the increased attendance. Based on the cost of current workshops, CBO estimates that implementing section 6 would cost \$14 million over the 2012–2016 period, assuming appropriation of the estimated amounts.

*Employment Services and Placement Programs.* Sections 8, 10, 12, and 14 would assist veterans and servicemembers separating

from active duty in seeking and obtaining employment. Such assistance would include:

- Direct appointment of qualified veterans to civil service positions,
- A work-experience program within DOD and with DOD contractors for active-duty servicemembers on terminal leave,
- Access to apprenticeship programs for members separating or retiring from active duty, and
- A mentorship and training program for veterans seeking employment.

Based on information from DOD and OPM, CBO estimates that, collectively, those programs would cost about \$5 million over the 2012–2021 period, assuming appropriation of the authorized and estimated amounts.

*Reports, Studies, and Audits.* S. 951 would require several reports, studies, and an audit to be completed by the Secretaries of Labor, Defense, and Veterans Affairs. CBO estimates that those efforts, collectively, would cost \$4 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

*Credentialing and Licensure.* Section 13 would continue a demonstration project on credentialing and licensure of veterans for two years beginning on the date of enactment of this bill. The authority to run that project ended September 30, 2009. This section also would require DOL to select not less than five MOSs for the demonstration project. Based on information from DOL, CBO estimates that continuing that demonstration project would cost \$3 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

*Pay-As-You-Go Considerations:* The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that by modifying the veterans’ housing loan guarantee program and other veterans’ training and rehabilitation programs, S. 951 would decrease direct spending for veterans’ benefits. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table. (Enacting S. 951 would not affect revenues.)

Table 4.—CBO Estimate of Pay-As-You-Go Effects for S. 951 as ordered reported by the Senate Committee on Veterans’ Affairs on June 29, 2011

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
NET INCREASE OR DECREASE (-) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact .....	0	-72	-62	-111	8	9	9	9	9	10	10	-227	-179

Note: Numbers do not add to totals because of rounding.

*Intergovernmental and private-sector impact:* S. 951 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of State, local, or tribal governments.

*Estimate prepared by:* Federal Costs: Veterans Housing Loan Program—David Newman; Readjustment Benefits—William Ma;

Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Elizabeth Bass.

*Estimate approved by:* Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

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

#### TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by members of the Committee on Veterans' Affairs at its June 29, 2011, meeting. The Committee voted, without dissent, to report S. 951 as amended to the Senate.

#### AGENCY REPORT

On June 8, 2011, Robert L. Jesse, M.D., PhD., Principal Deputy Under Secretary for Health, Veterans Health Administration, Department of Veterans Affairs, appeared before the Committee and submitted testimony on S. 951, among other issues. Excerpts from this statement are reprinted below:

STATEMENT OF ROBERT L. JESSE, MD, PhD, PRINCIPAL  
DEPUTY UNDER SECRETARY FOR HEALTH, VETERANS  
HEALTH ADMINISTRATION, U.S. DEPARTMENT OF VET-  
ERANS AFFAIRS

Good Morning Chairman Murray, Ranking Member Burr and Members of the Committee: Thank you for inviting me here today to present the Administration's views on several bills that would affect Department of Veterans Affairs (VA) benefits programs and services. Joining me today are Michael Cardarelli, Principal Deputy Under Secretary for Benefits, Richard Hipolit, Assistant General Counsel, and Walter A. Hall, Assistant General Counsel. We do not yet have cleared views on S. 411, S. 491, S. 873, S. 874, S. 914, S. 1017, S. 1060, S. 1089, S. 1104, S. 1123, S. 1124, and S. 1127 and the draft bill entitled "Veterans Programs Improvements Act of 2011." Also, we do not have estimated costs associated with implementing S. 396, S. 666, S. 910, S. 935, and section 9 of S. 951. We will forward the views and estimated costs to you as soon as they are available.

\* \* \* \* \*

S. 951, HIRING HEROES ACT OF 2011

Chairman Murray, we are pleased to provide our views on sections 2, 3, 4, 5, and 9 of your bill, S. 951, the "Hiring Heroes Act of 2011," but respectfully defer to the views of DOD regarding sections 6, 7, and 12; the Department of Labor (DOL) regarding sections 8, 11, and 13; and the Office of Personnel Management (OPM) regarding section 10.

Section 2 of the bill would extend through 2014 a provision enacted in Title XVI of Public Law 110-181, known as the Wounded Warrior Act, which authorizes VA to provide rehabilitative services and assistance to certain severely disabled active-duty Servicemembers in the same manner as provided to Veterans. VA proposed a similar provision in its draft Veterans Benefits Improvement Act of 2011, transmitted to the Senate on May 19, 2011. While the provisions differ in the length of the extension, VA supports section 2.

Section 3 of the bill would amend section 3116(b)(1) of title 38, United States Code, to expand VA's authority to pay employers for providing on-job training to Veterans. Under current law, VA is authorized to make payments to employers for providing on-job training to Veterans who have been rehabilitated to the point of employability in certain cases. By removing the requirement that Veterans be rehabilitated to the point of employability before VA can make payments to employers for providing on-job training, this section would allow VA to make these payments to employers for providing on-job training to many more Veterans. VA supports this

provision. VA estimates benefit costs to be \$792 thousand for the first year, \$4.2 million for five years, and \$9.1 million over ten years.

Section 4 of the bill would provide for additional rehabilitation programs for persons who have exhausted rights to unemployment benefits under State law. Under section 3102 of title 38, United States Code, as amended by this section, a person who has completed a chapter 31 rehabilitation program would be entitled to an additional rehabilitation program if the person meets the current requirements for entitlement to a chapter 31 rehabilitation program and has, under State or Federal law, exhausted all rights to regular compensation with respect to a benefit year, has no rights to regular compensation with respect to a week, and is not receiving compensation with respect to such week under the unemployment compensation law of Canada. In addition, the person must begin the additional rehabilitation program within 6 months of the date of such exhaustion. Under this section, a person would be considered to have exhausted rights to regular compensation under a State law when no payments of regular compensation can be made under such law because the person has received all regular compensation available based on employment or wages during a base period, or such person's rights to compensation have been terminated by reason of the expiration of the benefit year.

Section 4 of the bill would also amend section 3105 of title 38, United States Code, to limit the period of an additional rehabilitation program to 24 months, and sections 3105 and 3695 to exempt Veterans pursuing an additional rehabilitation program from certain limits. Under current section 3105, a rehabilitation program may not be pursued after 12 years after a veteran's discharge or release from active service. Under current section 3695(b), assistance under chapter 31 in combination with certain other provisions of law is limited to 48 months. Section 4 of the bill would amend sections 3105 and 3695(b) to make these limitations inapplicable to an additional rehabilitation program.

VA supports this provision because it would help VA serve more Veterans in need of assistance. VA estimates benefit costs to be \$51 thousand in the first year, \$294 thousand for five years, and \$724 thousand over ten years.

Section 5 of the bill would amend section 3106 of title 38, United States Code, to require an assessment and follow-up on Veterans with service-connected disabilities who participate in VA training and rehabilitation. In addition, section 5 would require VA to ascertain the employment status of a participating Veteran and assess his or her rehabilitation program not later than 180 days after completion of, or termination of, his or her participation in that program, and at least once every 180 days thereafter for a period of one year. VA supports this provision. We believe that providing follow-up is an important endeavor. No benefit costs would be associated with this provision. VA estimates administrative costs to be \$4.7 million in the first year, \$24.2 million over five years, and \$55 million over ten years. In addition, VA estimates that \$250 thousand will be needed in FY 2012 to develop an IT solution to automate follow up activity.

Finally, section 9 of the bill would require VA, DOD, and DOL to select a contractor to conduct a study to identify equivalencies between skills developed by members of the military through various military occupational specialties (MOS) and the qualifications required for private sector civilian employment positions and report on the results of the study. This section would also require Federal Government departments and agencies to cooperate with the contractor. VA, DOD, and DOL would be required to transmit the report with appropriate comments to Congress.

Section 9 would also require DOD to use the results of the study and other information to ensure that each member of the military participating in the Transition Assistance Program (TAP) receives an assessment of the various private sector civilian employment positions for which the member may be qualified as a result the member's MOS. DOD would have to transmit the individualized assessment to VA and DOL to use in providing employment-related assistance in the transition from military service to civilian life and to facilitate and enhance the transition.

VA does not support this provision to enter into a joint contract to identify civilian equivalencies of military jobs. Software applications that analyze military occupational data and provide equivalent civilian jobs currently exist. Therefore, VA believes a contract to conduct a study to identify this information is not necessary. VA is currently utilizing web software available in the public domain that translates military skills to equivalent civilian jobs. VA will continue to closely monitor the market place to identify software that may improve our ability to identify civilian equivalents of military jobs.

We do not have a cost estimate for implementing this section but will provide it when it is available.

\* \* \* \* \*

This concludes my prepared statement. Madam Chairman, we would be pleased to respond to whatever questions you may have.

On June 8, 2011, John McWilliam, Deputy Assistant Secretary, Veterans' Employment and Training Service, Department of Labor, appeared before the Committee and submitted testimony on S. 951, among other issues. Excerpts from this statement are reprinted below:

**STATEMENT OF JOHN McWILLIAM, DEPUTY ASSISTANT SECRETARY, VETERANS' EMPLOYMENT AND TRAINING SERVICE, U.S. DEPARTMENT OF LABOR**

Chairman Murray, Ranking Member Burr, and distinguished Members of the Committee, I am pleased to appear before you today to discuss legislation pending in this Committee aimed at helping our returning Servicemembers transition back to civilian life.

\* \* \* \* \*

Your letter of invitation seeks input on a significant number of bills at this hearing, and you ask VETS to specifically provide input on S. 951, the "Hiring Heroes Act of 2011." We have done so

in subsequent portions of this testimony, in addition to providing comments on the proposed “Honoring All Veterans Act of 2011,” which would require the Department of Labor (DOL), through the Assistant Secretary of the Office of Disability Employment Policy (ODEP), to initiate a program providing technical assistance to employers of Veterans who have a Traumatic Brain Injury or Post Traumatic Stress Disorder.

As the remaining pieces of proposed legislation being addressed at this hearing fall under the purview of other departments, VETS defers to those departments and I will restrict my testimony to the appropriate sections of S. 951, and the “Honoring All Veterans Act of 2011” that have a direct impact on DOL and the Veterans’ Employment and Training Service.

In addition to the invitation for today’s hearing, VETS has received a follow-up request to comment on Senator Casey’s proposed “Veteran Transition Assistance Program Audit Act of 2011.” Due to time constraints, VETS was unable to conduct a thorough review in time for today’s hearing, but we look forward to providing our comments for the record and continuing to work with Senator Casey and this entire Committee to ensure that our Servicemembers receive the best assistance possible as they transition back to civilian life.

S. 951: “HIRING HEROES ACT OF 2011”

*Section 6:* This section would require the mandatory participation of members of the Armed Forces in the Transition Assistance Program (TAP). We assume that this mandatory participation would include participation in all segments of the TAP, to include the Department’s Employment Workshop.

We believe that all transitioning Servicemembers who plan to enter civilian employment would benefit from attending the Employment Workshop, but defer to the Department of Defense (DOD) as to whether this program should be mandatory for all transitioning Servicemembers.

*Section 7:* This section would require DOL to follow-up on the employment status of members of the Armed Forces who recently participated in TAP. In particular, it would require that DOL contact each participating Veteran no later than six months after their completion of the program (TAP), and every three months thereafter for the rest of the year in order to ascertain the Veteran’s employment status.

DOL supports the concept of the TAP follow-up, but believes that the metrics of our redesigned Employment Workshop makes this requirement unnecessary. As you may recall, we recently testified on our current initiative to redesign and transform the Employment Workshop. As part of this initiative, a comprehensive follow-up program will be implemented to track participants’ success entering the civilian workforce. DOL believes that this program may provide the information that the Committee desires, and we would like to work with the Committee to provide additional information on this initiative.

*Section 8:* This section would: 1) establish a competitive grant program for nonprofit organizations that provide mentoring and training to Veterans; 2) require DOL and nonprofit organizations

to collaborate in order to facilitate the placement of Veterans in jobs that lead to economic self-sufficiency; 3) require DOL to conduct an assessment of grant performance no later than 18 months after enactment; and 4) authorize appropriations of \$4.5 million for Fiscal Years 2012 and 2013.

DOL believes that this section is unnecessary. We note that this section seems to closely follow the parameters of the existing Veterans' Workforce Investment Program (VWIP) established under section 168 of the Workforce Investment Act of 1998, and it is unclear whether the intent of this section differs from the intent of the VWIP. Therefore, we would like to work with the Committee to discuss the potential overlap between this section and the VWIP.

*Section 9:* Among other things, this section would require DOL, DOD, and the Department of Veterans Affairs (VA) to conduct a joint study to identify any equivalences between the skills developed by members of the Armed Forces through various military occupational specialties (MOS) and the qualifications required for various positions of civilian employment in the private sector.

Section 9 is unnecessary as it duplicates existing processes that provide the capability to crosswalk Servicemember skills to equivalent civilian occupations. We note that there are several tools that partially meet the need for skill equivalencies for separating Servicemembers, such as the Department's Occupational Information Network (O\*NET) and DOD's Credentialing Opportunities On-Line (COOL). In addition, the TAP redesign will include practical exercises to assist participants in translating their skills, abilities, experience, and training on to a resume, as well as creating an Individual Transition Plan. We would like to work with the Committee to explore ways to strengthen these resources and improve the transition of Veterans into civilian employment.

*Section 11:* This section would require the Department to conduct outreach to recently-separated Veterans in receipt of unemployment compensation for longer than 105 days in order to provide employment assistance.

The Department supports this section, but requests that the time period be changed from 105 days to 15 weeks to coincide with the end of a benefit week for the purposes of Unemployment Compensation.

*Section 13:* This section would reauthorize and modify the demonstration program for the credentialing and licensure of Veterans contained in 38 U.S.C. 4114.

DOL supports the concept of this section and believes that the credentialing and licensing of Veterans will be helpful in transitioning Servicemembers into the civilian sector, but there continue to be serious implementation issues with this provision. In particular, licensure and credentialing is mostly a function of the individual States, and to facilitate credentialing and licensure for Veterans, the demonstration project would require DOD to align its military training and assessments to more closely match States' civilian licensing requirements. We also note that credentialing and licensure requirements differ from State to State. We would like to work with the Committee to help resolve these issues so that the

credentialing and licensure of Veterans can be more successfully implemented.

\* \* \* \* \*

We are reminded everyday of the tremendous sacrifices made by our Veterans, Servicemembers and their families. Secretary Solis and the Veterans' Employment and Training Service believe that America must honor those sacrifices by providing the Nation's bravest with the best possible programs and services that we have to offer. We look forward to continuing our work with this Committee to do just that.

I again thank this Committee for your commitment to our Nation's Veterans and for the opportunity to testify before you. We would be happy to work with your staffs to provide technical assistance on any of these or future bills, and I would be happy to respond to any questions.

STATEMENT OF U.S. DEPARTMENT OF DEFENSE

Chairman Murray, Ranking Member Burr, and Members of this distinguished Committee thank you for extending the invitation to the Department of Defense to address pending legislation that would significantly affect our Servicemembers: S. 277, the proposed "Caring for Camp Lejeune Veterans Act of 2011;" S. 486, the proposed "Protecting Servicemembers from Mortgage Abuses Act of 2011;" S. 491, the proposed "Honor America's Guard-Reserve Retirees Act of 2011;" S. 698, the proposed bill to amend title 38, United States Code, to codify the prohibition against the reservation of gravesites at Arlington National Cemetery, and for other purposes; S. 951, the proposed "Hiring Heroes Act of 2011."

\* \* \* \* \*

S. 951

The Department's comments on S. 951 are limited to sections directly impacting the Department.

*Section 2:* The Department is not opposed to the provisions of section 2 that would extend Section 1631(b)(1) of the National Defense Authorization Act (NDAA) for 2008 (Public Law 110-181) through December 31, 2014. Section 1631(b)(1) allows Servicemembers, with a severe injury or illness to receive vocational, rehabilitation and employment benefits (but not compensation) from the Secretary of Veterans Affairs to facilitate their recovery and rehabilitation while still a member of the Armed Forces. Extending this benefit provides Servicemembers with disabilities assistance in identifying the training requirements and resources needed to achieve their rehabilitation and employment goals.

*Section 6:* The Department does not support section 6 as written. In FY 2010 there were approximately 155,000 active component retirements/separations with an 82.5 participation rate in the Department of Labor (DOL) employment workshops. Section 6 will require mandatory participation in the DOL Employment Workshop for all transitioning Servicemembers and does not allow any exceptions. As written, this section would require the following personnel to be retained on active duty until they have completed this TAP

component: Unanticipated losses (i.e., administrative discharges), approximately 57,000; Demobilizing/deactivating Guard/Reserve Component Servicemembers to complete the same program as their active duty counterparts, approximately 100,000; and several thousand Individual Mobilization Augmentees (IMA).

This provision also assumes increased TAP participation will correlate with an increase in transitioning Servicemembers obtaining employment. DOL is currently revamping its 2½-day employment workshop and will have the new workshop in place in November 2011. The Department recommends an analysis of the impact of the new workshop on employment before mandating this component of TAP for all transitioning personnel.

There is also an unknown, but potentially huge resource requirement that is currently not addressed in the President's budget, which would result from extending the previously noted categories of Servicemembers on active duty in order to be in compliance with mandatory TAP requirements. This would require an in-depth cost analysis, showing the impact of extending personnel on active duty to provide TAP counseling/briefings as well as to determine the impact on existing facilities (i.e., adequate classrooms, additional counselors/coaches, administrative support staff, IT support, equipment/computers, and IT infrastructure). A mandatory TAP requirement would also be a huge increase on costs for demobilizing National Guard and Reserves, to include post-deployment follow-up for up intervention for employment assistance. Such costs would also need to be part of an in-depth cost analysis.

In lieu of mandatory employment workshop participation for all separating Servicemembers, the Department recommends considering mandatory participation for Servicemembers with 10 or fewer years of active duty service (if the goal is to impact the group with the highest unemployment rate) with an "opt out" provision for all others. The Department also recommends having TAP components provided no later than 6–9 months before discharge and allow Servicemembers access to partnership programs with private employers or methods to develop/refine job skills prior to discharge

*Section 9:* The Department believes that section 9 is unnecessary as it duplicates existing processes that provide the capability to crosswalk Servicemember skills to equivalent civilian occupations, and therefore opposes section 9 of S. 951.

During mandatory (required by statute) preseparation counseling, Servicemembers are informed about the Occupational Information Network. The revised DD Form 2648, Preseparation Counseling Checklist for Active Component (AC), Active Guard Reserve (AGR), and Reserve Program Administrator (RPA) Servicemembers, states, "counselors will provide information on civilian occupations corresponding to Military occupations (see Occupational Information Network (O\*NET Web site) at [www.online.onetcenter.org/crosswalk](http://www.online.onetcenter.org/crosswalk) and related programs \* \* \*."

The Occupational Information Network (O\*NET) is under the sponsorship of the US Department of Labor/Employment and Training Administration. The O\*NET program is the Nation's primary source of occupational information. Central to the project is the O\*NET database, containing information on hundreds of standardized and occupation-specific descriptors. The database is contin-

ually updated by surveying a broad range of workers from each occupation. O\*NET Online contains crosswalks between the O\*NET-Standard Occupational Classification (SOC) and the Classification of Instructional Programs (CIP), Dictionary of Occupational Titles (DOT), Military Occupational Classification (MOC), Registered Apprenticeship Partners Information Data System (RAPIDS), and Standard Occupational Classification (SOC).

Additionally, the Department of Labor's Employment and Training Administration has a long-standing record of assisting transitioning Servicemembers with O\*NET.

Another program is the United States Military Apprenticeship Program (USMAP), a partnership between Secretary of Labor, Secretary of Navy and Secretary of Transportation. Out of 300 enlisted Military Occupational Specialties (MOS's), 257 are covered under USMAP trades/occupations employing apprenticeship. Occupations offered through USMAP cross over into several civilian industries, including servicing, manufacturing and construction, and transportation/utilities.

*Section 10:* The Department opposes section 10. The authority under this section is too broad in its application and scope. It would appear the language would simply allow veterans to be non-competitively appointed to the GS system within 180 days of discharge. There appears to be no provision on how we would establish qualifications. Given we have a myriad of hiring authorities for veterans, we do not see what problem this language is trying to solve. Further, it runs the risk of making it extremely difficult for someone who is not a veteran to gain entry level employment in light on this authority. We run the risk of inadvertently giving veterans preference that is far overreaching and will likely be challenged by the Merit Systems Protection Board.

*Section 12:* The Department is not opposed to the provisions of section 12 which would allow the Department to establish a pilot program to provide separating Servicemembers, who are on terminal leave, work experience with civilian employees and contractors of the Department of Defense to facilitate the transition of those members from service in the Armed Forces to employment in the civilian labor market. The Department realizes the value of programs that improve the employment outcomes for our transitioning servicemembers, such as those that provide exposure to the civilian work environment while working for the Department. The Department of Labor, Veterans Affairs, and Homeland Security all jointly develop and contribute to the Transition Assistance Program, and we look forward to working with them to improve transition outcomes by using new and creative ideas, such as the one provided in this section.

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STATEMENT OF HON. JOHN BERRY, DIRECTOR, U.S. OFFICE  
OF PERSONNEL MANAGEMENT

As discussed in the April 13th testimony, there are special veterans' hiring authorities that the Federal Government can use to recruit and employ veterans. OPM continues to encourage agencies to make full use of the various hiring authorities that can facilitate veterans' employment. For example, the Veterans Recruitment Act

(VRA) authorizes non-competitive appointment for eligible veterans to positions up to the GS-11 level, or equivalent. The Veterans Employment Opportunities Act (VEOA) can be used to appoint those entitled to veterans' preference or veterans who have at least 3 years of active military service to permanent positions in the competitive civil service. Hiring of veterans under the VEOA increased from about 20,200 in 2009 to more than 20,750 in 2010. VRA appointments grew from 6,659 to nearly 7,000 during the same period, and the special hiring authority for veterans who are 30 percent or More Disabled accounted for more than 2,000 hires last year, compared to 1,727 in 2009.

Additionally, certain veterans have a statutory right to veterans' preference, as do certain mothers and spouses of 100 percent disabled veterans, and certain widows of deceased veterans. Preference in hiring applies to permanent and temporary positions in the Executive branch. Veterans' preference also applies in a reduction in force.<sup>1</sup>

In summary, there are numerous hiring authorities and statutory rights that facilitate veterans' employment in the Federal Government.

#### S. 951, THE HIRING HEROES ACT OF 2011

S. 951 would create a fifth, separate hiring provision for veterans (in addition to veterans' preference). While we do not have a position on the legislation at this time, pursuant to the Committee's request, we would like to provide the Committee with an understanding of the practical implications of the legislation. The legislation would allow heads of Executive agencies to "appoint a member of the uniformed services who is honorably discharged to a position in the civil service without regard to sections 5 U.S.C. §§ 3301 through 3330c during the 180-day period beginning on the date that the individual is honorably discharged, if that individual is otherwise qualified for the position."

It is important to note that S. 951 might impact preference-eligible veterans who may also be eligible under the other hiring authorities presently available to veterans. For example, a non-preference veteran selected under this authority over a disabled veteran who otherwise might be selected under the 30 percent or More Disabled Veterans authority, or who might receive his or her preference under the competitive examining process. The non-disabled veteran who is unable to secure a position through the authority created by S. 951 would still be eligible under the VRA authority.

There are a few provisions in 5 U.S.C. §§ 3301 through 3330c that would be impacted by this legislation. These provisions establish veterans' preference in hiring. Veterans' preference in its present form comes from the Veterans' Preference Act of 1944, as amended, and is codified in various provisions of title 5, United States Code. By law, veterans who are disabled or who served on active duty in the Armed Forces during certain specified time periods or in military campaigns are entitled to preference over others

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<sup>1</sup>For more details on the history of veterans' preference, please visit <http://www.opm.gov/staffingPortal/vghist.asp>.

in hiring from competitive lists of eligibles and also in retention during reductions in force.<sup>2</sup>

However, veterans' preference is not available to all members of the uniformed services who are honorably discharged. Under this legislation, non-preference eligible veterans would be afforded the same newly created appointment authority as preference eligible veterans.

Similarly, the distinction between the preferences for non-disabled and disabled veterans was conceived as a beneficial preference for disabled veterans. Veterans' preference in its current form acknowledges the larger obligation owed to disabled veterans. The language in the legislation that would allow for the appointment of a member of the uniformed services "without regard to sections 3301 through 3330c" would create an authority without distinction between disabled and non-disabled veterans.

5 U.S.C. § 3321 creates a probationary period which applies to all Federal employees who are appointed to positions in the competitive service. The language of this legislation would remove the probationary period for any member of the uniformed services who is appointed under the authority proposed by this legislation. Similarly, 5 U.S.C. § 3328 outlines the requirements for Selective Service registration for individuals who are seeking Federal employment. This requirement would also not apply to individuals who are appointed under the authority proposed by this legislation.

Finally, individuals who have a preference eligibility are afforded administrative redress under 5 U.S.C. §§ 3330a through 3330c. The administrative redress enables individuals with veterans' preference who allege violations of their hiring rights to file a complaint with the Secretary of Labor, to pursue judicial redress, and to seek legal remedy. Individuals appointed under the authority proposed by this legislation would not be able to avail themselves of the protections of 5 U.S.C. §§ 3330a through 3330c.

The current veterans' preference statutes reflect a policy decision to differentiate between disabled and non-disabled veterans, a distinction that is not present in this legislation.

Additionally, S. 951 would create a conflict between individuals entitled to preference, and those who are not. As a result, this would create a bypass around the application of veterans' preference in both the competitive hiring process as well as for positions excepted from the competitive hiring process.

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<sup>2</sup>For more details on who is eligible for veterans' preference, please visit <http://www.opm.gov/staffingPortal/Vetguide.asp#2When>.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI 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 5. Government Organization and Employees**

\* \* \* \* \*

**Part III. Employees**

\* \* \* \* \*

**Subpart B. Employment and Retention**

\* \* \* \* \*

**Chapter 33. Examination, Selection, and Placement**

Sec.

SUBCHAPTER I. EXAMINATION, CERTIFICATION, AND APPOINTMENT

3301. Civil service; generally.

\* \* \* \* \*

3330c. Preference eligibles; remedy.

3330d. *Honorably discharged members of the uniformed services.*

\* \* \* \* \*

**SEC. 3330c. PREFERENCE ELIGIBLES; REMEDY**

\* \* \* \* \*

**SEC. 3330d. HONORABLY DISCHARGED MEMBERS OF THE UNIFORMED SERVICES**

*The head of an Executive agency may appoint a member of the uniformed services who is honorably discharged to a position in the civil service without regard to sections 3301 through 3320, 3322 through 3327, 3329, and 3330 during the 180-day period beginning on the date that the individual is honorably discharged, if that individual is otherwise qualified for the position.*

\* \* \* \* \*

**Title 10. Armed Forces**

\* \* \* \* \*

**Subtitle A. General Military Law**

\* \* \* \* \*

**Part II. Personnel**

\* \* \* \* \*

**Chapter 58. Benefits and Services for Members Being Separated or Recently Separated**

\* \* \* \* \*

**SEC. 1142. PRESEPARATION COUNSELING; TRANSMITTAL OF MEDICAL RECORDS TO DEPARTMENT OF VETERANS AFFAIRS**

(a) REQUIREMENT.—(1) \* \* \*

(2) In carrying out this section, the Secretary concerned [may] *shall* use the services available under section 1144 of this title.

\* \* \* \* \*

**SEC. 1144. EMPLOYMENT ASSISTANCE, JOB TRAINING ASSISTANCE, AND OTHER TRANSITIONAL SERVICES: DEPARTMENT OF LABOR**

(a) \* \* \*

\* \* \* \* \*

[(c) PARTICIPATION.—The Secretary of Defense and the Secretary of Homeland Security shall encourage and otherwise promote maximum participation by members of the armed forces eligible for assistance under the program carried out under this section.]

(c) PARTICIPATION.—(1) *Except as provided in paragraph (2), the Secretary of Defense and the Secretary of Homeland Security shall require the participation in the program carried out under this section of the members eligible for assistance under the program.*

(2) *The Secretary of Defense and the Secretary of Homeland Security may, under regulations such Secretaries shall prescribe, waive the participation requirement of paragraph (1) with respect to such groups or classifications of members as the Secretaries consider appropriate after consultation with the Secretary of Labor and the Secretary of Veterans Affairs.*

\* \* \* \* \*

(e) PARTICIPATION IN APPRENTICESHIP PROGRAMS.—*As part of the program carried out under this section, the Secretary of Defense and the Secretary of Homeland Security may permit a member of the armed forces eligible for assistance under the program to participate in an apprenticeship program registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.), or a pre-apprenticeship program that provides credit toward a program registered under such Act, that provides members of the armed forces with the edu-*

*cation, training, and services necessary to transition to meaningful employment that leads to economic self-sufficiency.*

\* \* \* \* \*

## Title 38. Veterans' Benefits

\* \* \* \* \*

### Part III. Readjustment and Related Benefits

\* \* \* \* \*

#### Chapter 31. Training and Rehabilitation for Veterans with Service-Connected Disabilities

Sec.

3100. Purposes.

\* \* \* \* \*

3106. Initial and extended evaluations; determinations regarding serious employment handicap; *program assessment and follow-up.*

\* \* \* \* \*

#### SEC. 3102. BASIC ENTITLEMENT

**【A person】** *(a) IN GENERAL.—A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—*

\* \* \* \* \*

*(b) ADDITIONAL REHABILITATION PROGRAMS FOR PERSONS WHO HAVE EXHAUSTED RIGHTS TO UNEMPLOYMENT BENEFITS UNDER STATE LAW.—(1) A person who has completed a rehabilitation program under this chapter shall be entitled to an additional rehabilitation program under the terms and conditions of this chapter if—*

*(A) the person is described by paragraph (1) or (2) of subsection (a); and*

*(B) the person—*

*(i) has exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year;*

*(ii) has no rights to regular compensation with respect to a week under such State or Federal law; and*

*(iii) is not receiving compensation with respect to such week under the unemployment compensation law of Canada; and*

*(C) begins such additional rehabilitation program within six months of the date of such exhaustion.*

*(2) For purposes of paragraph (1)(B)(i), a person shall be considered to have exhausted such person's rights to regular compensation under a State law when—*

*(A) no payments of regular compensation can be made under such law because such person has received all regular compensation available to such person based on employment or wages during such person's base period; or*

(B) such person's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(3) In this subsection, the terms "compensation," "regular compensation," "benefit year," "State," "State law," and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

**SEC. 3103. PERIODS OF ELIGIBILITY**

(a) Except as provided [in subsection (b), (c), or (d)] in subsection (b), (c), (d), or (e) of this section, a rehabilitation program may not be afforded to a veteran under this chapter after the end of the twelve-year period beginning on the date of such veteran's discharge or release from active military, naval, or air service.

\* \* \* \* \*

(e)(1) The limitation in subsection (a) shall not apply to a rehabilitation program described in paragraph (2).

(2) A rehabilitation program described in this paragraph is a rehabilitation program pursued by a veteran under section 3102(b) of this title.

(f) [(e)] In any case in which the Secretary has determined that a veteran was prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility otherwise prescribed in this section as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, such period of eligibility shall not run for the period of such active duty service plus four months.

\* \* \* \* \*

**SEC. 3105. DURATION OF REHABILITATION PROGRAMS**

(a) \* \* \*

(b) [Except as provided in subsection (c) of this section,] (1) Except as provided in paragraph (2) and in subsection (c), the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the current reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that the counseling and placement and postplacement services described in section 3104(a)(2) and (5) of this title may be provided for an additional period not to exceed eighteen months in any case in which the Secretary determines the provision of such counseling and services to be necessary to accomplish the purposes of a rehabilitation program in the individual case.

(2) The period of a vocational rehabilitation program pursued by a veteran under section 3102(b) of this title following a determination of the current reasonable feasibility of achieving a vocational goal may not exceed 24 months.

\* \* \* \* \*

**SEC. 3106. INITIAL AND EXTENDED EVALUATIONS; DETERMINATIONS REGARDING SERIOUS EMPLOYMENT HANDICAP; PROGRAM ASSESSMENT AND FOLLOW-UP**

\* \* \* \* \*

(g) For each rehabilitation program pursued by a veteran under this chapter, the Secretary shall contact such veteran not later than 180 days after the date on which such veteran completes such rehabilitation program or terminates participation in such rehabilitation program and not less frequently than once every 180 days thereafter for a period of one year to ascertain the employment status of the veteran and assess such rehabilitation program.

\* \* \* \* \*

**SEC. 3116. PROMOTION OF EMPLOYMENT AND TRAINING OPPORTUNITIES**

(a) \* \* \*

(b)(1) The Secretary, pursuant to regulations prescribed in accordance with paragraph (3) of this subsection, may make payments to employers for providing on-job training to veterans [who have been rehabilitated to the point of employability] in individual cases in which the Secretary determines that such payment is necessary to obtain needed on-job training or to begin employment. Such payments may not exceed the direct expenses incurred by such employers in providing such on-job training or employment opportunity.

\* \* \* \* \*

**Chapter 36. Administration of Educational Benefits**

\* \* \* \* \*

**Subchapter II. Miscellaneous Provisions**

\* \* \* \* \*

**SEC. 3695. LIMITATION ON PERIOD OF ASSISTANCE UNDER TWO OR MORE PROGRAMS**

(a) \* \* \*

(b) [No person] (1) Except as provided in paragraph (2), no person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in subsection (a) of this section in excess of 48 months (or the part-time equivalent thereof) unless the Secretary determines that additional months of benefits under chapter 31 of this title are necessary to accomplish the purposes of a rehabilitation program (as defined in section 3101(5) of this title) in the individual case.

(2) Paragraph (1) shall not apply with respect to a rehabilitation program described in section 3103(e)(2) of this title.

\* \* \* \* \*

**Chapter 37. Housing and Small Business Loans**

\* \* \* \* \*

**Subchapter III. Administrative Provisions**

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**SEC. 3729. LOAN FEE**

(a) \* \* \*

(b) DETERMINATION OF FEE.—

- (1) \* \* \*  
 (2) The loan fee table referred to in paragraph (1) is as follows:

Loan Fee Table

Type of loan	Active duty	Reservist	Other obligor veteran
(A)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed before January 1, 2004) .....	2.00	2.75	NA
* * * * *	*		
(B)(i) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed before [January 1, 2004] <i>October 1, 2011</i> ) .....	<b>[3.00]</b> 3.30	<b>[3.00]</b> 3.30	NA
(B)(ii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after [January 1, 2004, and before October 1, 2011] <i>October 1, 2011, and before October 1, 2014</i> ) .....	<b>[3.30]</b> 3.00	<b>[3.30]</b> 3.00	NA
[(B)(iii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2011 and before October 1, 2013) .....	2.15	2.15	<b>NA]</b>
(B)(iii) [(iv)] Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after [October 1, 2013] <i>October 1, 2014</i> ) .....	1.25	1.25	NA
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**Chapter 41. Job Counseling, Training, and Placement Service for Veterans**

Sec.

4100. Findings.

\* \* \* \* \*

4104. Local veterans' employment representatives.

4104A. Collaborative veterans' training, mentoring, and placement program.

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**SEC. 4103A. DISABLED VETERANS' OUTREACH PROGRAM**

(a) REQUIREMENT FOR EMPLOYMENT BY STATES OF A SUFFICIENT NUMBER OF SPECIALISTS.—

(1) Subject to approval by the Secretary, a State shall employ such full- or part-time disabled veterans' outreach program specialists as the State determines appropriate and efficient to carry out intensive services *and facilitate placements* under this chapter to meet the employment needs of eligible veterans with the following priority in the provision of services:

\* \* \* \* \*

(2) \* \* \*

(3) *In facilitating placement of a veteran under this program, a disabled veterans' outreach program specialist shall help to*

*identify job opportunities that are appropriate for the veteran's employment goals and assist that veteran in developing a cover letter and resume that are targeted for those particular jobs.*

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**SEC. 4104. LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES**

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**SEC. 4104A. COLLABORATIVE VETERANS' TRAINING, MENTORING, AND PLACEMENT PROGRAM**

(a) *GRANTS.*—*The Secretary shall award grants to eligible non-profit organizations to provide training and mentoring for eligible veterans who seek employment. The Secretary shall award the grants to not more than 3 organizations, for periods of 2 years.*

(b) *COLLABORATION AND FACILITATION.*—*The Secretary shall ensure that the recipients of the grants—*

(1) *collaborate with—*

(A) *the appropriate disabled veterans' outreach specialists (in carrying out the functions described in section 4103A(a)) and the appropriate local veterans' employment representatives (in carrying out the functions described in section 4104); and*

(B) *the appropriate State boards and local boards (as such terms are defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) for the areas to be served by recipients of the grants; and*

(2) *based on the collaboration, facilitate the placement of the veterans that complete the training in meaningful employment that leads to economic self-sufficiency.*

(c) *APPLICATION.*—*To be eligible to receive a grant under this section, a nonprofit organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the information shall include—*

(1) *information describing how the organization will—*

(A) *collaborate with disabled veterans' outreach specialists and local veterans' employment representatives and the appropriate State boards and local boards (as such terms are defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801));*

(B) *based on the collaboration, provide training that facilitates the placement described in subsection (b)(2); and*

(C) *make available, for each veteran receiving the training, a mentor to provide career advice to the veteran and assist the veteran in preparing a resume and developing job interviewing skills; and*

(2) *an assurance that the organization will provide the information necessary for the Secretary to prepare the reports described in subsection (d).*

(d) *REPORTS.*—*(1) Not later than 6 months after the date of enactment of the Hiring Heroes Act of 2011, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the process for awarding grants under this section, the re-*

recipients of the grants, and the collaboration described in subsections (b) and (c).

(2) Not later than 18 months after the date of enactment of the Hiring Heroes Act of 2011, the Secretary shall—

(A) conduct an assessment of the performance of the grant recipients, disabled veterans' outreach specialists, and local veterans' employment representatives in carrying out activities under this section, which assessment shall include collecting information on the number of—

(i) veterans who applied for training under this section;

(ii) veterans who entered the training;

(iii) veterans who completed the training;

(iv) veterans who were placed in meaningful employment under this section; and

(v) veterans who remained in such employment as of the date of the assessment; and

(B) submit to the appropriate committees of Congress a report that includes—

(i) a description of how the grant recipients used the funds made available under this section;

(ii) the results of the assessment conducted under subparagraph (A); and

(iii) the recommendations of the Secretary as to whether amounts should be appropriated to carry out this section for fiscal years after 2013.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$4,500,000 for the period consisting of fiscal years 2012 and 2013.

(f) **DEFINITIONS.**—In this section—

(1) 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; and

(2) the term “nonprofit organization” means an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and that is exempt from taxation under section 501(a) of such Code.

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#### **SEC. 4114. CREDENTIALING AND LICENSURE OF VETERANS: DEMONSTRATION PROJECT**

(a) **DEMONSTRATION PROJECT AUTHORIZED.**—The Assistant Secretary for Veterans' Employment and Training [may] shall carry out a demonstration project on credentialing in accordance with this section for the purpose of facilitating the seamless transition of members of the Armed Forces from service on active duty to civilian employment.

(b) **IDENTIFICATION OF MILITARY OCCUPATIONAL SPECIALTIES AND ASSOCIATED CREDENTIALS AND LICENSES.**—

(1) The [Assistant Secretary shall] Assistant Secretary of Veterans' Employment and Training shall, in consultation with the Assistant Secretary for Employment and Training, select not less than [10 military] five military occupational specialties for purposes of the demonstration project. Each specialty so selected by the Assistant Secretary of Veterans' Employment

*and Training* shall require a skill or set of skills that is required for civilian employment in an industry with high growth or high worker demand.

\* \* \* \* \*

[(d) TASK FORCE.—The Assistant Secretary may establish a task force of individuals with appropriate expertise to provide assistance to the Assistant Secretary in carrying out this section.

[(e) CONSULTATION.—In carrying out this section, the Assistant Secretary shall consult with the Secretary of Defense, the Secretary of Veterans Affairs, appropriate Federal and State officials, private-sector employers, labor organizations, and industry trade associations.

[(f) CONTRACT AUTHORITY.—For purposes of carrying out any part of the demonstration project under this section, the Assistant Secretary may enter into a contract with a public or private entity with appropriate expertise.

[(g) PERIOD OF PROJECT.—The period during which the Assistant Secretary may carry out the demonstration project under this section shall be the period beginning on the date that is 60 days after the date of the enactment of the Veterans Benefits, Health Care, and Information Technology Act of 2006 and ending on September 30, 2009.

[(h) FUNDING.—The Assistant Secretary may carry out the demonstration project under this section utilizing unobligated funds that are appropriated in accordance with the authorization set forth in section 4106 of this title.]

*(d) PERIOD OF PROJECT.—The period during which the Assistance Secretary shall carry out the demonstration project under this section shall be the two-year period beginning on the date of the enactment of the Hiring Heroes Act of 2011.*

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## Wounded Warrior Act

(Public Law 110-181; 10 U.S.C. 1071 note)

### Title XVI

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#### Subtitle C. Health Care Matters

#### SEC. 1631. MEDICAL CARE AND OTHER BENEFITS FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WITH SEVERE INJURIES OR ILLNESSES.

\* \* \* \* \*

(b) REHABILITATION AND VOCATIONAL BENEFITS.—

(1) \* \* \*

(2) SUNSET.—The Secretary of Veterans Affairs may not provide benefits to a member of the Armed Forces under this subsection after [December 31, 2012] *December 31, 2014*, if the

Secretary has not provided benefits to the member under this subsection before that date.

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