

VETERANS EMPLOYMENT, EDUCATION, AND  
HEALTHCARE IMPROVEMENT ACT

DECEMBER 1, 2015.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. MILLER of Florida, from the Committee on Veterans' Affairs,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3016]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3016) to amend title 38, United States Code, to clarify the role of podiatrists in the Department of Veterans Affairs, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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## AMENDMENT

The amendments are as follows:

Strike out all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans Employment, Education, and Healthcare Improvement Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—VETERANS HEALTH CARE

- Sec. 101. Role of podiatrists in Department of Veterans Affairs.
- Sec. 102. Priority of medal of honor recipients in health care system of Department of Veterans Affairs.
- Sec. 103. Improvement of care provided to newborn children.
- Sec. 104. Comptroller General audit of budget of Veterans Health Administration.
- Sec. 105. Outreach to veterans regarding effect of certain delayed payments by Department of Veterans Affairs Chief Business Office.
- Sec. 106. Department of Veterans Affairs pilot program on dog training therapy.

#### TITLE II—VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION

- Sec. 201. Establishment of Veterans Economic Opportunity and Transition Administration.
- Sec. 202. Under Secretary for Veterans Economic Opportunity and Transition.
- Sec. 203. Transfer of Department of Labor veterans programs to Department of Veterans Affairs.
- Sec. 204. Deputy Under Secretary of Veterans Affairs for Veterans’ Employment, Training, and Transition.
- Sec. 205. Additional technical and conforming amendments.
- Sec. 206. Use of Federal directory of new hires.

#### TITLE III—EDUCATION ASSISTANCE AND VOCATIONAL REHABILITATION

- Sec. 301. Modification and improvement of transfer of unused education benefits to family members under Department of Veterans Affairs Post-9/11 Educational Assistance Program.
- Sec. 302. Clarification of eligibility for Marine Gunnery Sergeant John David Fry Scholarship.
- Sec. 303. Approval of courses of education and training for purposes of the vocational rehabilitation program of the Department of Veterans Affairs.
- Sec. 304. Authority to prioritize vocational rehabilitation services based on need.
- Sec. 305. Recodification and improvement of election process for Post-9/11 Educational Assistance Program.
- Sec. 306. Clarification of assistance provided for certain flight training and other programs of education.
- Sec. 307. Consideration of certain time spent receiving medical care from Secretary of Defense as active duty for purposes of eligibility for post-9/11 educational assistance.
- Sec. 308. Work-study allowance.
- Sec. 309. Vocational rehabilitation and education action plan.
- Sec. 310. Reduction in redundancy and inefficiencies in vocational rehabilitation claims processing.

#### TITLE IV—ADMINISTRATION OF EDUCATIONAL ASSISTANCE

- Sec. 401. Centralized reporting of veteran enrollment by certain groups, districts, and consortiums of educational institutions.
- Sec. 402. Provision of information regarding veteran entitlement to educational assistance.
- Sec. 403. Role of State approving agencies.
- Sec. 404. Criteria used to approve courses.
- Sec. 405. Compliance surveys.
- Sec. 406. Survey of individuals using their entitlement to educational assistance under the educational assistance programs administered by the Secretary of Veterans Affairs.
- Sec. 407. Improvement of information technology of the Veterans Benefits Administration of the Department of Veterans Affairs.
- Sec. 408. Technical amendment relating to in-State tuition rate for individuals to whom entitlement is transferred under All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance.

#### TITLE V—OTHER MATTERS

- Sec. 501. Amount of loan guaranteed under home loan program of Department of Veterans Affairs.
- Sec. 502. Longitudinal study of job counseling, training, and placement service for veterans.
- Sec. 503. Limitations on subcontracts under contracts with small business concerns owned and controlled by veterans.
- Sec. 504. Procedures for provision of certain information to State veterans agencies to facilitate the furnishing of assistance and benefits to veterans.

## TITLE I—VETERANS HEALTH CARE

### SEC. 101. ROLE OF PODIATRISTS IN DEPARTMENT OF VETERANS AFFAIRS.

(a) **INCLUSION AS PHYSICIAN.**—

(1) **IN GENERAL.**—Subchapter I of chapter 74 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 7413. Treatment of podiatrists**

“For purposes of this chapter, the term ‘physician’ includes a podiatrist.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7412 the following new item:

“7413. Treatment of podiatrists.”

(3) CONFORMING AMENDMENT.—Section 7401(1) of such title is amended by striking “Physicians, dentists, podiatrists,” and inserting “Physicians, dentists,”.

(b) QUALIFICATIONS.—Section 7402(b) of such title is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “or of doctor of osteopathy” and inserting “, doctor of osteopathy, or doctor of podiatric medicine”; and

(B) in subparagraph (C), by inserting “podiatry,” after “surgery,”;

(2) by striking paragraph (5); and

(3) by redesignating paragraphs (6) through (14) as paragraphs (5) through (13), respectively.

(c) PERIOD OF APPOINTMENT.—Section 7403(a)(2) of such title is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

(d) MODIFICATION OF PAY GRADE.—

(1) GRADE.—The list in section 7404(b) of such title is amended by striking “CLINICAL PODIATRIST, CHIROPRACTOR, AND OPTOMETRIST SCHEDULE” and inserting “CLINICAL CHIROPRACTOR AND OPTOMETRIST SCHEDULE”.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply with respect to a pay period of the Department of Veterans Affairs beginning on or after the date that is 30 days after the date of the enactment of this Act.

(e) CONTRACTS FOR SCARCE SERVICES.—Section 7409(a) of such title is amended by striking “podiatrists.”

(f) PERSONNEL ADMINISTRATION.—Section 7421(b) of such title is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(g) MEDICAL DIRECTORS.—Section 7306(a)(4) of such title is amended by inserting “, doctor of podiatric medicine,” after “doctor of medicine”.

(h) APPLICATION.—The amendments made by this section shall apply with respect to podiatrists employed by the Department of Veterans Affairs as of the date of the enactment of this Act or who are appointed on or after such date.

**SEC. 102. PRIORITY OF MEDAL OF HONOR RECIPIENTS IN HEALTH CARE SYSTEM OF DEPARTMENT OF VETERANS AFFAIRS.**

(a) ENROLLMENT PRIORITY.—Section 1705(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking the period at the end and inserting the following: “and veterans who were awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.”; and

(2) in paragraph (3), by striking “veterans who were awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.”.

(b) ELIGIBILITY.—Section 1710(a)(2)(D) of such title is amended by inserting after “war” the following: “, who was awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.”.

(c) EXTENDED CARE SERVICES.—Section 1710B(c)(2) of such title is amended—

(1) in subparagraph (B), by striking “or”;

(2) in subparagraph (C), by striking the period at the end and inserting “; or”;

and

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

“(D) to a veteran who was awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.”.

(d) COPAYMENT FOR MEDICATIONS.—Section 1722A(a)(3) of such title is amended—

(1) in subparagraph (B), by striking “or”;

(2) in subparagraph (C), by striking the period at the end and inserting “; or”;

and

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

“(D) to a veteran who was awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.”.

(e) APPLICATION.—The priority of enrollment of medal of honor recipients pursuant to chapter 17 of title 38, United States Code, as amended by this section, shall apply to each such recipient, regardless of the date on which the medal is awarded.

**SEC. 103. IMPROVEMENT OF CARE PROVIDED TO NEWBORN CHILDREN.**

Section 1786 of title 38, United States Code, is amended—

- (1) in subsection (a), by striking “seven days” and inserting “42 days”; and
- (2) by adding at the end the following new subsection:

“(c) ANNUAL REPORT.—Not later than October 31, 2016, and each year thereafter through 2020, the Secretary shall submit to the Committees on Veterans’ Affairs of the House of Representatives and the Senate a report on the health care services provided under subsection (a) during the fiscal year preceding the date of the report, including the number of newborn children who received such services during such fiscal year.”.

**SEC. 104. COMPTROLLER GENERAL AUDIT OF BUDGET OF VETERANS HEALTH ADMINISTRATION.**

(a) IN GENERAL.—Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 7330B. Comptroller General audit of VHA budget**

“(a) IN GENERAL.—The Comptroller General of the United States shall periodically conduct an audit of elements of the budget of the Veterans Health Administration, including the budget formulation, execution, allocation, and use of funds.

“(b) SELECTION OF ELEMENTS.—(1) In selecting elements of the budget of the Veterans Health Administration for purposes of an audit under subsection (a), the Comptroller General shall take into consideration—

- “(A) knowledge of the programs of the Veterans Health Administration;
- “(B) current issues;
- “(C) national priorities; and
- “(D) priorities expressed by the appropriate congressional committees.

“(2) Not later than 30 days before conducting an audit under subsection (a), the Comptroller General shall submit to the appropriate congressional committees notice of the elements selected by the Comptroller General for purposes of the audit.

“(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term ‘appropriate congressional committees’ means—

- “(1) the Committee on Veterans’ Affairs, the Committee on Appropriations, and the Committee on the Budget of the Senate; and
- “(2) the Committee on Veterans’ Affairs, the Committee on Appropriations, and the Committee on the Budget of the House of Representatives.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7330A the following new item:

“7330B. Comptroller General audit of VHA budget.”.

**SEC. 105. OUTREACH TO VETERANS REGARDING EFFECT OF CERTAIN DELAYED PAYMENTS BY DEPARTMENT OF VETERANS AFFAIRS CHIEF BUSINESS OFFICE.**

(a) OUTREACH.—The Secretary of Veterans Affairs shall conduct outreach, including through national and local veterans service organizations, to inform veterans of how to resolve credit issues caused by delayed payment of a claim for emergency hospital care, medical services, or other emergency health care furnished through a non-Department of Veterans Affairs provider. The Secretary shall establish a toll-free telephone number for veterans to report such credit issues to the Chief Business Office of the Department of Veterans Affairs.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—During the five-year period beginning on the date of the enactment of this Act, the Secretary of Veterans Affairs shall annually submit to Congress a report on the effectiveness of the Chief Business Office in providing timely payment of proper invoices for emergency hospital care, medical services, or other emergency health care furnished through non-Department of Veterans Affairs providers by the required payment date during both the five-year period preceding the date of the report and the one-year period preceding such date. For any part of the period covered by a report under this subsection that occurred before October 1, 2014, the report shall evaluate the provision of such payments by the Veterans Integrated Service Networks.

(2) MATTERS INCLUDED.—The reports under paragraph (1) shall include, for each period covered by the report, the following:

(A) The number of veterans who contacted the Secretary regarding a delayed payment that negatively affected, or will potentially negatively affect, the credit of the veteran.

(B) The total amount of interest penalties paid by the Secretary of Veterans Affairs under section 3902 of title 31, United States Code, by reason of a delayed payment.

(C) The number of proper invoices submitted, listed in a table for each quarter and fiscal year of each such period that includes—

- (i) the total amount owed by the Secretary under the proper invoices;
- (ii) the payment status of each proper invoice, as of the date of the report; and
- (iii) the period that elapsed until each proper invoice was paid, including an explanation of any delayed payment.

(D) Any comments regarding delayed payments made by medical providers.

(E) A description of the best practices that the Chief Business Office can carry out to provide timely payment of a proper invoice, including a plan to improve such timely payments.

(c) **QUARTERLY REPORTS ON PENDING CLAIMS.**—During the five-year period beginning on the date of the enactment of this Act, the Chief Business Office of the Department of Veterans Affairs shall submit to Congress quarterly reports on the number of pending claims for reimbursement for emergency hospital care, medical services, and other emergency health care furnished through non-Department of Veterans Affairs providers. Each such report shall include each of the following:

(1) The total number of such pending claims for each hospital system of the Department, as of the last day of the quarter covered by the report.

(2) The total number of veterans who submitted such a pending claim in each State, as of such day.

(3) The aggregate amount of all such pending claims in each State, as of such day.

(4) As of such day—

(A) the number of such pending claims that have been pending for 30 days or longer;

(B) the number of such pending claims that have been pending for 90 days or longer; and

(C) the number of such pending claims that have been pending for 365 days or longer.

(5) For each hospital system, for the quarter covered by the report—

(A) the number of claims for reimbursement for emergency hospital care, medical services, and other emergency health care furnished through non-Department of Veterans Affairs providers approved during such quarter;

(B) the number of such claims denied during such quarter; and

(C) the number of such claims denied listed by each denial reason group.

(d) **COMPTROLLER GENERAL STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study that evaluates the effectiveness of the Chief Business Office in providing timely payment of a proper invoice for emergency hospital care, medical services, or other emergency health care furnished through non-Department of Veterans Affairs providers by the required payment date.

(2) **SUBMITTAL.**—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1), including the total amount of interest penalties paid by the Secretary of Veterans Affairs under section 3902 of title 31, United States Code, by reason of a delayed payment.

(e) **DEFINITIONS.**—In this section:

(1) The term “delayed payment” means a proper invoice that is not paid by the Secretary of Veterans Affairs until after the required payment date.

(2) The term “proper invoice” has the meaning given that term in section 3901(a) of title 31, United States Code.

(3) The term “required payment date” means the date that payment is due for a contract pursuant to section 3903(a) of title 31, United States Code.

**SEC. 106. DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM ON DOG TRAINING THERAPY.**

(a) **IN GENERAL.**—Commencing not later than 120 days after the date of the enactment of the Act, the Secretary of Veterans Affairs shall carry out a pilot program under which the Secretary shall enter into a contract with one or more appropriate non-government entities for the purpose of assessing the effectiveness of addressing post-deployment mental health and post-traumatic stress disorder symptoms through a therapeutic medium of training service dogs for veterans with disabilities.

(b) **DURATION OF PILOT PROGRAM.**—The pilot program required by subsection (a) shall be carried out during the five-year period beginning on the date of the commencement of the pilot program.

(c) **LOCATIONS OF PILOT PROGRAM.**—In entering into contracts for purposes of the pilot program, the Secretary shall seek to enter into contracts with appropriate non-government entities located in close proximity to at least three but not more than five medical centers of the Department.

(d) APPROPRIATE NON-GOVERNMENT ENTITIES.—For purposes of the pilot program, an appropriate non-government entity is an entity that is certified in the training and handling of service dogs and that has a training area that would be appropriate for use in educating veterans with mental health conditions in the art and science of service dog training and handling. Such training area shall—

- (1) include a dedicated space that is suitable for grooming and training dogs indoors;
- (2) be wheelchair accessible;
- (3) include classroom or lecture space;
- (4) include office space for staff;
- (5) include a suitable space for storing training equipment;
- (6) provide for periodic use of other training areas for training the dogs with wheelchairs and conducting other exercises;
- (7) include outdoor exercise and toileting space for dogs; and
- (8) provide transportation for weekly field trips to train dogs in other environments.

(e) DESIGN OF PILOT PROGRAM.—Each contract entered into under subsection (a) shall provide that the non-government entity shall—

- (1) ensure that veterans participating in the program receive training from certified service dog training instructors;
- (2) ensure that in selecting assistance dogs for use in the program, dogs residing in animal shelters or foster homes are looked at as an option, if appropriate, and ensure that all dogs used in the program have adequate temperament and health clearances;
- (3) ensure that each service dog in training participating in the pilot program is taught all essential commands pertaining to service dog skills;
- (4) ensure that each service dog in training lives at the pilot program site or a volunteer foster home in the vicinity of such site while receiving training;
- (5) ensure that the pilot program involves both lecture of service dog training methodologies and practical hands-on training and grooming of service dogs; and
- (6) ensure that the pilot program is designed to—
  - (A) maximize the therapeutic benefits to veterans participating in the program; and
  - (B) provide well-trained service dogs to veterans with disabilities; and
- (7) in hiring service dog training instructors to carry out training under the pilot program, give a preference to veterans who have successfully graduated from post-traumatic stress disorder or other residential treatment programs and who have received adequate certification in service dog training.

(f) ADMINISTRATION.—In order to carry out the pilot program under section (a), the Secretary of Veterans Affairs shall—

- (1) administer the program through the Recreation Therapy Service of the Department of Veterans Affairs under the direction of a certified recreational therapist with sufficient administrative experience to oversee the pilot program; and
- (2) establish a director of service dog training with a background working in social services, experience in teaching others to train service dogs in a vocational setting, and at least one year of experience working with veterans or active duty service members with post-traumatic stress disorder in a clinical setting.

(g) VETERAN ELIGIBILITY.—The Secretary shall select veterans for participation in the pilot program. A veteran with post-traumatic stress disorder or other post-deployment mental health condition may volunteer to participate in the pilot program, if the Secretary determines that there are adequate program resources available for such veteran at the pilot program site. Veterans may participate in the pilot program in conjunction with the compensated work therapy program of the Department of Veterans Affairs.

(h) COLLECTION OF DATA.—The Secretary shall collect data on the pilot program required under subsection (a) to determine how effective the program is for the veterans participating in the program. Such data shall include data to determine how effectively the program assists veterans in—

- (1) reducing stigma associated with post-traumatic stress disorder or other post-deployment mental health condition;
- (2) improving emotional regulation;
- (3) improving patience;
- (4) instilling or re-establishing a sense of purpose;
- (5) providing an opportunity to help fellow veterans;
- (6) reintegrating into the community;
- (7) exposing the dog to new environments and in doing so, helping the veteran reduce social isolation and withdrawal;

- (8) building relationship skills, including parenting skills;
- (9) relaxing the hyper-vigilant survival state;
- (10) improving sleep patterns; and
- (11) enabling veterans to decrease the use of pain medication.

(i) **REPORTS TO CONGRESS.**—Not later than one year after the date of the commencement of the pilot program under subsection (a), and each year thereafter for the duration of the pilot program, the Secretary shall submit to Congress a report on the pilot program. Each such report shall include—

- (1) the number of veterans participating in the pilot program;
- (2) a description of the services carried out under the pilot program;
- (3) the effects that participating in the pilot program has on the following—
  - (A) symptoms of post-traumatic stress disorder and post-deployment adjustment difficulties, including depression, maintenance of sobriety, suicidal ideations, and homelessness;
  - (B) potentially relevant physiological markers that possibly relate to the interactions with the service dogs;
  - (C) family dynamics;
  - (D) insomnia and pain management; and
  - (E) overall well-being; and
- (4) the recommendations of the Secretary with respect to the extension or expansion of the pilot program.

(j) **DEFINITION.**—For the purposes of this section, the term “service dog training instructor” means an instructor who provides the direct training of veterans with post-traumatic stress disorder and other post-deployment issues in the art and science of service dog training and handling.

## **TITLE II—VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION**

### **SEC. 201. ESTABLISHMENT OF VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION.**

(a) **VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION.**—

- (1) **IN GENERAL.**—Part V of title 38, United States Code, is amended by adding at the end the following new chapter:

#### **“CHAPTER 80—VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION**

“Sec.

“8001. Organization of Administration.

“8002. Functions of Administration.

#### **“§ 8001. Organization of Administration**

“(a) **VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION.**—There is in the Department of Veterans Affairs a Veterans Economic Opportunity and Transition Administration. The primary function of the Veterans Economic Opportunity and Transition Administration is the administration of the programs of the Department that provide assistance related to economic opportunity to veterans and their dependents and survivors.

“(b) **UNDER SECRETARY FOR ECONOMIC OPPORTUNITY AND TRANSITION.**—The Veterans Economic Opportunity and Transition Administration is under the Under Secretary for Veterans Economic Opportunity and Transition, who is directly responsible to the Secretary for the operations of the Administration.

“(c) **DEPUTY UNDER SECRETARIES.**—The Veterans Economic Opportunity and Transition Administration shall have two Deputy Under Secretaries as follows:

- “(1) The Deputy Under Secretary for Readjustment, who shall be the principal assistant of the Under Secretary for Veterans Economic Opportunity and Transition with respect to the programs specified in paragraphs (1) through (4) of section 8002 of this title.

- “(2) The Deputy Under Secretary for Employment, Training, and Transition, who shall be the principal assistant of the Under Secretary for Veterans Economic Opportunity and Transition with respect to the programs specified in paragraphs (5) through (9) of section 8002 of this title.

#### **“§ 8002. Functions of Administration**

“The Veterans Economic Opportunity and Transition Administration is responsible for the administration of the following programs of the Department:

- “(1) Vocational rehabilitation and employment programs.
- “(2) Educational assistance programs.

“(3) Veterans’ housing loan and related programs.

“(4) The verification of small businesses owned and controlled by veterans pursuant to subsection (f) of section 8127 of this title, including the administration of the database of veteran-owned businesses described in such subsection.

“(5) Job counseling, training, and placement services for veterans under chapter 41 of this title.

“(6) Employment and training of veterans under chapter 42 of this title.

“(7) Administration of employment and employment rights of members of the uniformed services under chapter 43 of this title.

“(8) Homeless veterans reintegration programs under chapter 20 of this title.

“(9) The Transition Assistance Program under section 1144 of title 10.

“(10) Any other program of the Department that the Secretary determines appropriate.”.

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and of part V of title 38, United States Code, are each amended by inserting after the item relating to chapter 79 the following new item:

**“80. Veterans Economic Opportunity and Transition Administration ..... 8001”.**

(b) EFFECTIVE DATE.—Chapter 80 of title 38, United States Code, as added by subsection (a) shall take effect on October 1, 2016.

(c) FULL-TIME EMPLOYEES.—For fiscal years 2017 and 2018, the total number of full-time equivalent employees authorized for the Veterans Benefits Administration and the Veterans Economic Opportunity and Transition Administration, as established under chapter 80 of title 38, United States Code, as added by subsection (a), may not exceed 22,118.

(d) HOMELESS VETERANS REINTEGRATION PROGRAMS.—Nothing in section 8002 of title 38, United States Code, as added by subsection (a), or in any other amendment made by this title, shall affect the provision of funds to grant recipients under section 2021 or 2021A of title 38, United States Code.

**SEC. 202. UNDER SECRETARY FOR VETERANS ECONOMIC OPPORTUNITY AND TRANSITION.**

(a) UNDER SECRETARY.—

(1) IN GENERAL.—Chapter 3 of title 38, United States Code, is amended by inserting after section 306 the following new section:

**“§ 306A. Under Secretary for Veterans Economic Opportunity and Transition**

“(a) UNDER SECRETARY.—There is in the Department an Under Secretary for Veterans Economic Opportunity and Transition, who is appointed by the President, by and with the advice and consent of the Senate. The Under Secretary for Veterans Economic Opportunity and Transition shall be appointed without regard to political affiliation or activity and solely on the basis of demonstrated ability in—

“(1) information technology; and

“(2) the administration of programs within the Veterans Economic Opportunity and Transition Administration or programs of similar content and scope.

“(b) RESPONSIBILITIES.—The Under Secretary for Veterans Economic Opportunity and Transition is the head of, and is directly responsible to the Secretary for the operations of, the Veterans Economic Opportunity and Transition Administration.

“(c) VACANCIES.—(1) Whenever a vacancy in the position of Under Secretary for Veterans Economic Opportunity and Transition occurs or is anticipated, the Secretary shall establish a commission to recommend individuals to the President for appointment to the position.

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

“(A) Three persons representing education and training, vocational rehabilitation, employment, real estate, mortgage finance and related industries, and survivor benefits activities affected by the Veterans Economic Opportunity and Transition Administration.

“(B) Two persons representing veterans served by the Veterans Economic Opportunity and Transition Administration.

“(C) Two persons who have experience in the management of private sector benefits programs of similar content and scope to the economic opportunity and transition programs of the Department.

“(D) The Deputy Secretary of Veterans Affairs.

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

“(F) One person who has held the position of Under Secretary for Veterans Economic Opportunity and Transition, if the Secretary determines that it is desirable for such person to be a member of the commission.

“(3) A commission established under this subsection shall recommend at least three individuals for appointment to the position of Under Secretary for Veterans Economic Opportunity and Transition. The commission shall submit all recommendations to the Secretary. The Secretary shall forward the recommendations to the President and the Committees on Veterans’ Affairs of the Senate and House of Representatives with any comments the Secretary considers appropriate. Thereafter, the President may request the commission to recommend additional individuals for appointment.

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

“(d) QUALIFICATIONS OF RECOMMENDED INDIVIDUALS.—Each individual recommended to the President by the commission for appointment to the position of Under Secretary for Veterans Economic Opportunity and Transition shall be an individual who has held a senior level position in the private sector with responsibilities relating to at least one of the following:

- “(1) Education policy.
- “(2) Vocational rehabilitation.
- “(3) Employment.
- “(4) Job placement.
- “(5) Home loan finance.
- “(6) Small business development.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 306 the following new item:

“306A. Under Secretary for Veterans Economic Opportunity and Transition.”.

(b) CONFORMING AMENDMENTS.—Title 38, United States Code, is further amended—

(1) in section 306(c)(2), by striking subparagraphs (A) and (E) and redesignating subparagraphs (B), (C), (D), and (F), as subparagraphs (A) through (D), respectively;

(2) in section 317(d)(2), by inserting after “Under Secretary for Benefits,” the following: “the Under Secretary for Veterans Economic Opportunity and Transition,”;

(3) in section 318(d)(2), by inserting after “Under Secretary for Benefits,” the following: “the Under Secretary for Veterans Economic Opportunity and Transition,”;

(4) in section 516(e)(2)(C), by striking “Health and the Under Secretary for Benefits” and inserting “Health, the Under Secretary for Benefits, and the Under Secretary for Veterans Economic Opportunity and Transition”;

(5) in section 541(a)(2)(B), by striking “Health and the Under Secretary for Benefits” and inserting “Health, the Under Secretary for Benefits, and the Under Secretary for Veterans Economic Opportunity and Transition”;

(6) in section 542(a)(2)(B)(iii), by striking “Health and the Under Secretary for Benefits” and inserting “Health, the Under Secretary for Benefits, and the Under Secretary for Veterans Economic Opportunity and Transition”;

(7) in section 544(a)(2)(B)(vi), by striking “Health and the Under Secretary for Benefits” and inserting “Health, the Under Secretary for Benefits, and the Under Secretary for Veterans Economic Opportunity and Transition”;

(8) in section 709(c)(2)(A), by inserting after “Under Secretary for Benefits,” the following: “the Under Secretary for Veterans Economic Opportunity and Transition,”;

(9) in section 7701(a), by inserting after “assistance” the following: “, other than assistance related to Economic Opportunity and Transition,”; and

(10) in section 7703, by striking paragraphs (2) and (3) and redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(c) EFFECTIVE DATE.—Section 306A of title 38, United States Code, as added by subsection (a), and the amendments made by this section, shall take effect on October 1, 2016.

**SEC. 203. TRANSFER OF DEPARTMENT OF LABOR VETERANS PROGRAMS TO DEPARTMENT OF VETERANS AFFAIRS.**

(a) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Effective October 1, 2016, there shall be transferred to the Secretary of Veterans Affairs all functions performed under the following programs of the Department of Labor, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

(A) Job counseling, training, and placement services for veterans under chapter 41 of title 38, United States Code.

- (B) Employment and training of veterans under chapter 42 of such title.
- (C) Administration of employment and employment rights of members of the uniformed services under chapter 43 of such title.
- (D) Homeless veterans reintegration programs under chapter 20 of such title.
- (2) ORGANIZATION.—The programs, and the personnel, assets, and liabilities pertaining to such programs, transferred to the Secretary under paragraph (1) shall be administered as part of the Veterans Economic Opportunity and Transition Administration established by section 8001 of title 38, United States Code, as added by section 201.
- (b) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall include in the President's budget request for the Department of Veterans Affairs for fiscal year 2017, and for each subsequent fiscal year, funding requested for the functions referred to in subsection (a)(1).
- (c) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this section—
- (1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or
  - (2) to such department or office is deemed to refer to the department or office to which such function is transferred.
- (d) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this section.
- (e) SAVINGS PROVISIONS.—
- (1) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—
    - (A) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Labor, the Secretary of Veterans Affairs, any officer or employee of any office transferred by this section, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this section, and
    - (B) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),
 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.
  - (2) PROCEEDINGS.—This section shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the date of the enactment of this section before an office transferred by this section, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.
  - (3) SUITS.—This section shall not affect suits commenced before the date of the enactment of this section, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.
  - (4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Labor or the Secretary of Labor, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this section, shall abate by reason of the enactment of this section.
  - (5) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(6) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this section, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this section shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this section.

(f) TRANSFER OF ASSETS.—Except as otherwise provided in this section, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this section shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

(g) DELEGATION AND ASSIGNMENT.—Except as otherwise expressly prohibited by law or otherwise provided in this section, an official to whom functions are transferred under this section (including the head of any office to which functions are transferred under this section) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this section shall relieve the official to whom a function is transferred under this section of responsibility for the administration of the function.

(h) AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.—

(1) DETERMINATIONS.—If necessary, the Director of Management and Budget shall make any determination of the functions that are transferred under this section.

(2) INCIDENTAL TRANSFERS.—The Director, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this section. The Director shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(i) CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.—For purposes of this section, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

(j) AVAILABILITY OF EXISTING FUNDS.—Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this section shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities.

(k) MEMORANDUM OF UNDERSTANDING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs and the Secretary of Labor shall—

(1) enter into a memorandum of understanding to carry out this section, which shall include—

(A) a description of how the Department of Veterans Affairs will coordinate with the Employment and Training Agency at the Department of Labor to ensure coordination and avoid duplication among activities authorized the Workforce Innovation and Opportunity Act (Public Law 113–128) and the activities referred to in subsection (a)(1)(A) through (D); and

(B) a description of how the Department of Veterans Affairs will share the performance accountability measures required under subsection (l)(1) with the Employment and Training Agency of the Department of Labor; and

(2) jointly submit to the Committee on Veterans' Affairs and the Committee on Education and the Workforce of the House of Representatives and the Committee on Veterans' Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate a copy of such memorandum.

(l) COORDINATION WITH REQUIREMENTS UNDER WIOA.—

(1) PERFORMANCE ACCOUNTABILITY.—The Secretary of Veterans Affairs shall establish performance accountability measures for the activities carried out pursuant to the programs referred to in subsection (a)(1)(A) through (D), which shall meet or exceed the requirements of section 116(b) of the Workforce Innovation and Opportunity Act (Public Law 113–128; 29 U.S.C. 3141).

(2) STATE PLANS.—The Secretary shall ensure that each State develops and submits to the Secretary a combined State plan that meets or exceeds the requirements under section 103 of the Workforce Innovation and Opportunity Act (Public Law 113–128; 29 U.S.C. 3113) for activities authorized under chapter 41 of title 38, United States Code.

(m) DEFINITIONS.—For purposes of this section—

(1) the term “function” includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term “office” includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

**SEC. 204. DEPUTY UNDER SECRETARY OF VETERANS AFFAIRS FOR VETERANS’ EMPLOYMENT, TRAINING, AND TRANSITION.**

(a) IN GENERAL.—Subsection (a) of section 4102A of title 38, United States Code, is amended to read as follows:

“(a) DEPUTY UNDER SECRETARY FOR VETERANS’ EMPLOYMENT, TRAINING, AND TRANSITION.—(1) The Deputy Under Secretary for Employment, Training, and Transition established by subsection (c)(2) of section 8001 of this title shall formulate and implement all departmental policies and procedures to carry out this chapter and the other programs described in such subsection.

“(2) The employees of the Department administering chapter 43 of this title shall be administratively and functionally responsible to the Deputy Under Secretary for Employment, Training, and Transition.”

(b) CLERICAL AMENDMENTS.—Chapter 41 of title 38, United States Code, is amended as follows:

(1) The section heading of section 4102A of such title is amended to read as follows:

**“§ 4102A. Deputy Under Secretary for Veterans’ Employment, Training, and Transition; program functions; Regional Administrators”.**

(2) The item relating to such section in the table of sections at the beginning of such chapter is amended to read as follows:

“4102A. Deputy Under Secretary for Veterans’ Employment, Training, and Transition; program functions; Regional Administrators.”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2016.

**SEC. 205. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.**

(a) CHAPTER 41.—Chapter 41 of title 38, United States Code, as amended by this title, is further amended as follows:

(1) By striking “Assistant Secretary of Labor for Veterans’ Employment and Training” each place it appears and inserting “Deputy Under Secretary for Employment, Training, and Transition”.

(2) By striking “Department of Labor” each place it appears and inserting “Department”.

(3) By striking “Secretary of Labor” each place it appears and inserting “Secretary”.

(4) In section 4101, by striking paragraph (8).

(5) In section 4102A(b)—

(A) in paragraph (1), by striking “such Assistant Secretary” and inserting “such Deputy Under Secretary”; and

(B) in paragraph (3), by striking “and consulting with the Secretary of Veterans Affairs”.

(6) In section 4105(b), by striking “and the Secretary of Veterans Affairs” both places it appears.

(7) By striking section 4108.

(8) In the table of sections at the beginning of such chapter, by striking the item relating to section 4108.

(9) In section 4110(d), by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(10) In section 4110A(b), by striking “Congress” and inserting “the Committees on Veterans’ Affairs of the Senate and House of Representatives”.

(11) In section 4114—

(A) by striking “Assistant Secretary for Veterans’ Employment and Training” each place it appears and inserting “Deputy Under Secretary for Employment, Training, and Transition”; and

(B) in paragraphs (2) and (3) of subsection (b) and in subsections (c) and (d), by striking “Assistant Secretary” each place it appears and inserting “Deputy Under Secretary”.

- (b) CHAPTER 42.—Chapter 42 of title 38, United States Code, is amended as follows:
- (1) By striking “Secretary of Labor” each place it appears and inserting “Secretary”.
  - (2) By striking “Department of Labor” each place it appears and inserting “Department”.
- (c) CHAPTER 43.—Chapter 43 of title 38, United States Code, is amended as follows:
- (1) In section 4303, by striking paragraph (11).
  - (2) In section 4317(b)(2), by striking “Secretary of Veterans Affairs” and inserting “Secretary”.
  - (3) In section 4321, by striking “(through the Veterans’ Employment and Training Service)”.
  - (4) In section 4332(a)(1), by striking “of Labor”.
  - (5) In section 4333, by striking “, the Secretary of Defense, and the Secretary of Veterans Affairs” and inserting “and the Secretary of Defense”.
- (d) CHAPTER 20.—Chapter 20 of title 38, United States Code, is amended as follows:
- (1) In section 2003(a)(4), by striking “of the Department of Labor”.
  - (2) In section 2011(g)(2), by striking “the Department of Labor,”.
  - (3) In section 2021—
    - (A) in subsection (b), by striking “that Secretary” and inserting “the Secretary”;
    - (B) in subsection (c)—
      - (i) by striking the subsection heading and inserting the following:
 

“(c) ADMINISTRATION THROUGH DEPUTY UNDER SECRETARY FOR VETERANS’ EMPLOYMENT, TRAINING, AND TRANSITION.—”; and
      - (ii) by striking “Assistant Secretary of Labor for Veterans’ Employment and Training” and inserting “Deputy Under Secretary for Employment, Training, and Transition”; and
    - (C) by striking “Secretary of Labor” each place it appears and inserting “Secretary”.
  - (4) In section 2021A—
    - (A) in subsection (c), by striking “that Secretary” and inserting “the Secretary”;
    - (B) in subsection (d)—
      - (i) by striking the subsection heading and inserting the following:
 

“(d) ADMINISTRATION THROUGH DEPUTY UNDER SECRETARY FOR VETERANS’ EMPLOYMENT, TRAINING, AND TRANSITION.—”; and
      - (ii) by striking “Assistant Secretary of Labor for Veterans’ Employment and Training” and inserting “Deputy Under Secretary for Employment, Training, and Transition”; and
    - (C) by striking “Secretary of Labor” each place it appears and inserting “Secretary”.
  - (5) In section 2023—
    - (A) in subsection (a), by striking “and the Secretary of Labor (hereinafter in this section referred to as the ‘Secretaries’)”;
    - (B) by striking “Secretaries” each place it appears and inserting “Secretary”; and
    - (C) in subsection (c)(4), by striking “determine” and inserting “determines”.
  - (6) In section 2065(b)(5), by striking subparagraph (E) and redesignating subparagraphs (F) through (H) as subparagraphs (E) through (G), respectively.
  - (7) In section 2066(a)(3), by striking subparagraph (A) and redesignating subparagraphs (B) through (G) as subparagraphs (A) through (F), respectively.
- (e) OTHER PROVISIONS OF TITLE 38.—Title 38, United States Code, is further amended as follows:
- (1) In section 542(a)(2)(B), by striking clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.
  - (2) In section 544(a)(2)(B), by striking clause (i) and redesignating clauses (ii) through (vi) as clauses (i) through (v), respectively.
  - (3) In section 3118(b), by striking “and the Assistant Secretary for Veterans’ Employment in the Department of Labor”.
  - (4) In section 3119(c), by striking “the Assistant Secretary for Veterans’ Employment in the Department of Labor,”.
  - (5) In section 3121(a)(3), by striking “the Assistant Secretary of Labor for Veterans’ Employment and Training of the Department of Labor” and inserting “the Under Secretary for Veterans Economic Opportunity and Transition”.

(6) In section 3692(a), by striking “and the Assistant Secretary of Labor for Veterans’ Employment and Training shall be ex officio members” and inserting “an ex officio member”.

(7) In section 6306—

(A) in subsection (a), by striking “shall arrange with the Secretary of Labor for the State employment service to match” and inserting “shall ensure that the State employment service matches”; and

(B) in subsection (b), by striking “, in consultation with the Secretary of Labor,”.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2016.

**SEC. 206. USE OF FEDERAL DIRECTORY OF NEW HIRES.**

Section 453A(h) of the Social Security Act (42 U.S.C. 653a(h)) is amended by adding at the end the following new paragraph:

“(4) SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall have access to information reported by employers pursuant to subsection (b) of this section.”.

## **TITLE III—EDUCATION ASSISTANCE AND VOCATIONAL REHABILITATION**

**SEC. 301. MODIFICATION AND IMPROVEMENT OF TRANSFER OF UNUSED EDUCATION BENEFITS TO FAMILY MEMBERS UNDER DEPARTMENT OF VETERANS AFFAIRS POST-9/11 EDUCATIONAL ASSISTANCE PROGRAM.**

(a) ELIGIBILITY REQUIREMENTS.—Subsection (b)(1) of section 3319 of title 38, United States Code, is amended—

(1) by striking “six years” and inserting “ten years”; and

(2) by striking “four more years” and inserting “two more years”.

(b) COMMENCEMENT OF USE.—Subsection (g)(1)(A) of such section is amended by striking “six years” and inserting “ten years”.

(c) RATE OF PAYMENT.—Subsection (h)(3)(B) of such section is amended by inserting before the period at the end the following: “, except that the amount of the monthly stipend described in subsection (c)(1)(B) or (g)(3)(A)(ii) of section 3313, as the case may be, shall be payable in an amount equal to 50 percent of the amount of such stipend that would otherwise be payable under this chapter to the individual making the transfer”.

(d) CLERICAL AMENDMENT.—Such section is further amended by striking “armed forces” each place it appears and inserting “Armed Forces”.

(e) APPLICABILITY.—The amendments made by this section shall apply with respect to an election to transfer entitlement under section 3319 of title 38, United States Code, that is made on or after the date that is 180 days after the date of the enactment of this Act.

**SEC. 302. CLARIFICATION OF ELIGIBILITY FOR MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP.**

(a) IN GENERAL.—Section 701(d) of the Veterans Access, Choice, and Accountability Act of 2014 (Public Law 113–146; 128 Stat. 1796; 38 U.S.C. 3311 note) is amended to read as follows:

“(d) APPLICABILITY.—

“(1) IN GENERAL.—The amendments made by this section shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after January 1, 2015.

“(2) DEATHS THAT OCCURRED BETWEEN SEPTEMBER 11, 2001, AND DECEMBER 31, 2005.—For purposes of section 3311(f)(2) of title 38, United States Code, any member of the Armed Forces who died during the period beginning on September 11, 2001, and ending on December 31, 2005, is deemed to have died on January 1, 2006.”.

(b) ELECTION ON RECEIPT OF CERTAIN BENEFITS.—Section 3311(f) of title 38, United States Code, is amended—

(1) in paragraph (3), by striking “A surviving spouse” and inserting “Except as provided in paragraph (4), a surviving spouse”;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

“(4) EXCEPTION FOR CERTAIN ELECTIONS.—

“(A) IN GENERAL.—An election made under paragraph (3) by a spouse described in subparagraph (B) may not be treated as irrevocable if such election occurred before the date of the enactment of this paragraph.

“(B) ELIGIBLE SURVIVING SPOUSE.—A spouse described in this subparagraph is an individual—

“(i) who is entitled to assistance under subsection (a) pursuant to paragraph (9) of subsection (b); and

“(ii) who was the spouse of a member of the Armed Forces who died during the period beginning on September 11, 2001, and ending on December 31, 2005.”

(c) TECHNICAL AMENDMENT.—Paragraph (5) of subsection (f) of section 3311 of title 38, United States Code, as redesignated by subsection (b)(2), is amended by striking “that paragraph” and inserting “paragraph (9) of subsection (b)”.

(d) YELLOW RIBBON G.I. EDUCATION ENHANCEMENT PROGRAM.—Section 3317(a) of such title is amended by striking “paragraphs (1) and (2) of section 3311(b)” and inserting “paragraphs (1), (2), and (9) of section 3311(b) of this title”.

**SEC. 303. APPROVAL OF COURSES OF EDUCATION AND TRAINING FOR PURPOSES OF THE VOCATIONAL REHABILITATION PROGRAM OF THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) IN GENERAL.—Section 3104(b) of title 38, United States Code, is amended by adding at the end the following new sentence: “To the maximum extent practicable, a course of education or training may be pursued by a veteran as part of a rehabilitation program under this chapter only if the course is approved for purposes of chapter 30 or 33 of this title. The Secretary may waive the requirement under the preceding sentence to the extent the Secretary determines appropriate.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to a course of education or training pursued by a veteran who first begins a program of rehabilitation under chapter 31 of title 38, United States Code, on or after the date that is one year after the date of the enactment of this Act.

**SEC. 304. AUTHORITY TO PRIORITIZE VOCATIONAL REHABILITATION SERVICES BASED ON NEED.**

Section 3104 of title 38, United States Code, as amended by section 303, is further amended by adding at the end the following new subsection:

“(c)(1) The Secretary shall have the authority to administer this chapter by prioritizing the provision of services under this chapter based on need, as determined by the Secretary. In evaluating need for purposes of this subsection, the Secretary shall consider disability ratings, the severity of employment handicaps, qualification for a program of independent living, income, and any other factor the Secretary determines appropriate.

“(2) Not later than 90 days before making any changes to the prioritization of the provision of services under this chapter as authorized under paragraph (1), the Secretary shall submit to Congress a plan describing such changes.”

**SEC. 305. RECODIFICATION AND IMPROVEMENT OF ELECTION PROCESS FOR POST-9/11 EDUCATIONAL ASSISTANCE PROGRAM.**

(a) IN GENERAL.—Subchapter III of chapter 33 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 3326. Election to receive educational assistance**

“(a) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under this chapter if such individual—

“(1) as of August 1, 2009—

“(A) is entitled to basic educational assistance under chapter 30 of the title and has used, but retains unused, entitlement under that chapter;

“(B) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10 and has used, but retains unused, entitlement under the applicable chapter;

“(C) is entitled to basic educational assistance under chapter 30 of this title but has not used any entitlement under that chapter;

“(D) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10 but has not used any entitlement under such chapter;

“(E) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 this title and is making contributions toward such assistance under section 3011(b) or 3012(c) of this title; or

“(F) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of this title by reason of an election under section 3011(c)(1) or 3012(d)(1) of this title; and

“(2) as of the date of the individual’s election under this paragraph, meets the requirements for entitlement to educational assistance under this chapter.

“(b) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under subsection (a) of an individual described by paragraph (1)(E) of that subsection, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of this title, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

“(c) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

“(1) ELECTION TO REVOKE.—If, on the date an individual described in paragraph (1)(A) or (1)(C) of subsection (a) makes an election under that subsection, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of this title is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

“(2) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of this title in accordance with the provisions of this section.

“(3) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in paragraph (1) that is not revoked by an individual in accordance with that paragraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of this title.

“(d) POST-9/11 EDUCATIONAL ASSISTANCE.—

“(1) IN GENERAL.—Subject to paragraph (2) and except as provided in subsection (e), an individual making an election under subsection (a) shall be entitled to educational assistance under this chapter in accordance with the provisions of this chapter, instead of basic educational assistance under chapter 30 of this title, or educational assistance under chapter 107, 1606, or 1607 of title 10, as applicable.

“(2) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under subsection (a) who is described by paragraph (1)(A) of that subsection, the number of months of entitlement of the individual to educational assistance under this chapter 33 shall be the number of months equal to—

“(A) the number of months of unused entitlement of the individual under chapter 30 of this title, as of the date of the election, plus

“(B) the number of months, if any, of entitlement revoked by the individual under subsection (c)(1).

“(e) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—In the event educational assistance to which an individual making an election under subsection (a) would be entitled under chapter 30 of this title, or chapter 107, 1606, or 1607 of title 10, as applicable, is not authorized to be available to the individual under the provisions of this chapter the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

“(2) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under paragraph (1) shall be chargeable against the entitlement of the individual to educational assistance under this chapter at the rate of one month of entitlement under this chapter for each month of entitlement utilized by the individual under paragraph (1) (as determined as if such entitlement were utilized under the provisions of chapter 30 of this title, or chapter 107, 1606, or 1607 of title 10, as applicable).

“(f) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

“(1) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under subsection (a) who is described by subparagraph (A), (C), or (E) of paragraph (1) of that subsection, the amount of educational assistance payable to the individual under this chapter 33 as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

“(A) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of this title, as of the date of the election, multiplied by

“(B) the fraction—

“(i) the numerator of which is—

“(I) the number of months of entitlement to basic educational assistance under chapter 30 of this title remaining to the individual at the time of the election; plus

“(II) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under subsection (c)(1); and  
“(ii) the denominator of which is 36 months.

“(2) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by paragraph (1) who is described by subsection (a)(1)(E), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of paragraph (1)(B)(i)(II) shall be 36 months.

“(3) TIMING OF PAYMENT.—The amount payable with respect to an individual under paragraph (1) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under subsections (b) through (g) of that section (as applicable), before the exhaustion of the individual’s entitlement to educational assistance under this chapter.

“(g) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.—An individual making an election under subsection (a)(1) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of this title, or section 16131(i) of title 10, or supplemental educational assistance under subchapter III of chapter 30 of this title, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under this chapter, in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

“(h) ALTERNATIVE ELECTION BY SECRETARY.—

“(1) IN GENERAL.—In the case of an individual who, on or after January 1, 2016, submits to the Secretary an election under this section that the Secretary determines is clearly against the interests of the individual, or who fails to make an election under this section, the Secretary may make an alternative election on behalf of the individual that the Secretary determines is in the best interests of the individual.

“(2) NOTICE.—If the Secretary makes an election on behalf of an individual under this subsection, the Secretary shall notify the individual by not later than seven days after making such election and shall provide the individual with a 30-day period, beginning on the date of the individual’s receipt of such notice, during which the individual may modify or revoke the election made by the Secretary on the individual’s behalf. The Secretary shall include, as part of such notice, a clear statement of why the alternative election made by the Secretary is in the best interests of the individual as compared to the election submitted by the individual. The Secretary shall provide the notice required under this paragraph by electronic means whenever possible.

“(i) IRREVOCABILITY OF ELECTIONS.—An election under subsection (a) or (c)(1) is irrevocable.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3326. Election to receive educational assistance.”

(c) CONFORMING REPEAL.—Subsection (c) of section 5003 of the Post-9/11 Veterans Educational Assistance Act of 2008 (Public Law 110–252; 38 U.S.C. 3301 note) is hereby repealed.

**SEC. 306. CLARIFICATION OF ASSISTANCE PROVIDED FOR CERTAIN FLIGHT TRAINING AND OTHER PROGRAMS OF EDUCATION.**

(a) FLIGHT TRAINING.—Subsection (c)(1)(A) of section 3313 of title 38, United States Code, is amended—

(1) in clause (i)—

(A) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(B) by striking “In the case of a program of education pursued at a public institution of higher learning” and inserting “(I) Subject to subclause (II), in the case of a program of education pursued at a public institution of higher learning not described in clause (ii)(II)(bb)”; and

(C) by adding at the end the following new subclause:

“(II) In determining the actual net cost for in-State tuition and fees pursuant to subclause (I), the Secretary may not pay for tuition and fees relating to flight training.”; and

(2) in clause (ii)—

(A) in subclause (I), by redesignating items (aa) and (bb) as subitems (AA) and (BB), respectively;

(B) in subclause (II), by redesignating items (aa) and (bb) as subitems (AA) and (BB), respectively;

(C) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(D) by striking “In the case of a program of education pursued at a non-public or foreign institution of higher learning” and inserting “(I) In the case of a program of education described in subclause (II)”; and

(E) by adding at the end the following new subclause:

“(II) A program of education described in this subclause is any of the following:

“(aa) A program of education pursued at a non-public or foreign institution of higher learning.

“(bb) A program of education pursued at a public institution of higher learning in which flight training is required to earn the degree being pursued (including with respect to a dual major, concentration, or other element of such a degree).”

(b) CERTAIN PROGRAMS OF EDUCATION CARRIED OUT UNDER CONTRACT.—Section 3313(c)(1)(A)(ii)(II) of title 38, United States Code, as added by subsection (a)(2)(E), is amended by adding at the end the following new item:

“(cc) A program of education pursued at a public institution of higher learning in which the public institution of higher learning enters into a contract or agreement with an entity (other than another public institution of higher learning) to provide such program of education or a portion of such program of education.”

(c) APPLICATION.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by subsection (a) and (b) shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after the date of the enactment of this Act.

(2) SPECIAL RULE FOR CURRENT STUDENTS.—In the case of an individual who, as of the date of the enactment of this Act, is using educational assistance under chapter 33 of title 38, United States Code, to pursue a course of education that includes a program of education described in item (bb) or (cc) of section 3313(c)(1)(A)(ii)(II) of title 38, United States Code, as added by subsections (a) and (b), respectively, the amendment made by such subsection shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after the date that is two years after the date of the enactment of this Act.

**SEC. 307. CONSIDERATION OF CERTAIN TIME SPENT RECEIVING MEDICAL CARE FROM SECRETARY OF DEFENSE AS ACTIVE DUTY FOR PURPOSES OF ELIGIBILITY FOR POST-9/11 EDUCATIONAL ASSISTANCE.**

(a) IN GENERAL.—Section 3301(1)(B) of title 38, United States Code, is amended by inserting “12301(h)” after “12301(g)”.

(b) APPLICATION.—The amendment made by subsection (a) shall apply with respect to active duty service by a member of a reserve component covered by section 12301(h) of title 10, United States, beginning on or after the date that is 180 days after the date of the enactment of this Act.

**SEC. 308. WORK-STUDY ALLOWANCE.**

Section 3485(a)(4) of title 38, United States Code, is amended by striking “June 30, 2013” each place it appears and inserting “June 30, 2013, or the period beginning on June 30, 2016, and ending on June 30, 2021”.

**SEC. 309. VOCATIONAL REHABILITATION AND EDUCATION ACTION PLAN.**

Not later than 270 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall develop and publish an action plan for improving the services and assistance provided under chapter 31 of title 38, United States Code. Such plan shall include each of the following:

(1) A comprehensive analysis of, and recommendations and a proposed implementation plan for remedying workload management challenges at regional offices of the Department of Veterans Affairs, including steps to reduce counselor caseloads of veterans participating in a rehabilitation program under such chapter, particularly for counselors who are assisting veterans with traumatic brain injury and post-traumatic stress disorder and counselors with educational and vocational counseling workloads.

(2) A comprehensive analysis of the reasons for the disproportionately low percentage of veterans with service-connected disabilities who served in the

Armed Forces after September 11, 2001, who opt to participate in a rehabilitation program under such chapter relative to the percentage of such veterans who use their entitlement to educational assistance under chapter 33 of title 38, United States Code, including an analysis of barriers to timely enrollment in rehabilitation programs under chapter 31 of such title and of any barriers to a veteran enrolling in the program of that veteran's choice.

(3) Recommendations and a proposed implementation plan for encouraging more veterans with service-connected disabilities who served in the Armed Forces after September 11, 2001, to participate in rehabilitation programs under chapter 31 of such title.

(4) A national staff training program for vocational rehabilitation counselors of the Department that includes the provision of—

(A) training to assist counselors in understanding the very profound disorientation experienced by warriors whose lives and life-plans have been upended and out of their control because of their injury;

(B) training to assist counselors in working in partnership with veterans on individual rehabilitation plans; and

(C) training on post-traumatic stress disorder and other mental health conditions and on moderate to severe traumatic brain injury that is designed to improve the ability of such counselors to assist veterans with these conditions, including by providing information on the broad spectrum of such conditions and the effect of such conditions on an individual's abilities and functional limitations.

**SEC. 310. REDUCTION IN REDUNDANCY AND INEFFICIENCIES IN VOCATIONAL REHABILITATION CLAIMS PROCESSING.**

(a) **VOCATIONAL REHABILITATION CLAIMS.**—The Secretary of Veterans Affairs shall reduce redundancy and inefficiencies in the use of information technology to process claims for rehabilitation programs under chapter 31 of title 38, United States Code, by—

(1) ensuring that all payments for and on behalf of veterans participating in a rehabilitation program under such chapter are only processed and paid out of one corporate information technology system, in order to eliminate the redundancy of multiple information technology payment systems; and

(2) enhancing the information technology system supporting veterans participating in such a program to support more accurate accounting of services and outcomes for such veterans.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2016 \$10,000,000 to carry out this section.

(c) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report on the changes made pursuant to subsection (a).

## **TITLE IV—ADMINISTRATION OF EDUCATIONAL ASSISTANCE**

**SEC. 401. CENTRALIZED REPORTING OF VETERAN ENROLLMENT BY CERTAIN GROUPS, DISTRICTS, AND CONSORTIUMS OF EDUCATIONAL INSTITUTIONS.**

(a) **IN GENERAL.**—Section 3684(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting “32, 33,” after “31,”; and

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

“(4) For purposes of this subsection, the term ‘educational institution’ may include a group, district, or consortium of separately accredited educational institutions located in the same State that are organized in a manner that facilitates the centralized reporting of the enrollments in such group, district, or consortium of institutions.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to reports submitted on or after the date of the enactment of this Act.

**SEC. 402. PROVISION OF INFORMATION REGARDING VETERAN ENTITLEMENT TO EDUCATIONAL ASSISTANCE.**

(a) **IN GENERAL.**—Subchapter II of chapter 36 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 3699. Provision of certain information to educational institutions**

“For each veteran or other individual pursuing a course of education that has been approved under this chapter using educational assistance to which the veteran

or other individual is entitled under chapter 30, 32, 33, or 35 of this title, the Secretary shall make available to the educational institution offering the course information about the amount of such educational assistance to which the veteran or other individual is entitled. Such information shall be provided to such educational institution through a secure information technology system accessible by the educational institution and shall be regularly updated to reflect any amounts used by the veteran or other individual.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3698 the following new item:

“3699. Provision of certain information to educational institutions.”.

**SEC. 403. ROLE OF STATE APPROVING AGENCIES.**

(a) APPROVAL OF CERTAIN COURSES.—Section 3672(b)(2)(A) of title 38, United States Code, is amended by striking “the following” and all that follows through the colon and inserting the following: “a program of education is deemed to be approved for purposes of this chapter if a State approving agency determines that the program is one of the following programs:”.

(b) APPROVAL OF OTHER COURSES.—Section 3675 of such title is amended—

(1) in subsection (a)(1)—

(A) by striking “The Secretary or a State approving agency” and inserting “A State approving agency, or the Secretary when acting in the role of a State approving agency,”; and

(B) by striking “offered by proprietary for-profit educational institutions” and inserting “not covered by section 3672 of this title”; and

(2) in subsection (b), by striking “the Secretary or the State approving agency” each place it appears and inserting “the State approving agency, or the Secretary when acting in the role of a State approving agency,”.

**SEC. 404. CRITERIA USED TO APPROVE COURSES.**

(a) NONACCREDITED COURSES.—Section 3676(c)(14) of title 38, United States Code, is amended by inserting before the period the following: “if the Secretary, in consultation with the State approving agency and pursuant to regulations prescribed to carry out this paragraph, determines such criteria are necessary and treat public, private, and proprietary for-profit educational institutions equitably”.

(b) ACCREDITED COURSES.—Section 3675(b)(3) of such title is amended by striking “and (3)” and inserting “(3), and (14)”.

(c) APPLICATION.—The amendment made by subsection (a) shall apply with respect to—

(1) criteria developed pursuant to paragraph (14) of subsection (c) of section 3676 of title 38, United States Code, on or after January 1, 2013; and

(2) an investigation conducted under such subsection that is covered by a reimbursement of expenses paid by the Secretary of Veterans Affairs to a State pursuant to section 3674 of such title on or after October 1, 2015.

**SEC. 405. COMPLIANCE SURVEYS.**

(a) IN GENERAL.—Section 3693 of such title is amended—

(1) by striking subsection (a) and inserting the following new subsection (a):

“(a)(1) Except as provided in subsection (b), the Secretary shall conduct an annual compliance survey of educational institutions and training establishments offering one or more courses approved for the enrollment of eligible veterans or persons if at least 20 such veterans or persons are enrolled in any such course. The Secretary shall—

“(A) design the compliance surveys to ensure that such institutions or establishments, as the case may be, and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title;

“(B) survey each such educational institution and training establishment not less than once during every two-year period; and

“(C) assign not fewer than one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

“(2) The Secretary, in consultation with the State approving agencies, shall—

“(A) annually determine the parameters of the surveys required under paragraph (1); and

“(B) not later than September 1 of each year, make available to the State approving agencies a list of the educational institutions and training establishments that will be surveyed during the fiscal year following the date of making such list available.”; and

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

“(c) In this section, the terms ‘educational institution’ and ‘training establishment’ have the meaning given such terms in section 3452 of this title.”.

(b) CONFORMING AMENDMENTS.—Subsection (b) of such section is amended—

(1) by striking “subsection (a) of this section for an annual compliance survey” and inserting “subsection (a)(1) for a compliance survey”;

(2) by striking “institution” and inserting “educational institution or training establishment”; and

(3) by striking “institution’s demonstrated record of compliance” and inserting “record of compliance of such institution or establishment”.

**SEC. 406. SURVEY OF INDIVIDUALS USING THEIR ENTITLEMENT TO EDUCATIONAL ASSISTANCE UNDER THE EDUCATIONAL ASSISTANCE PROGRAMS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.**

(a) SURVEY REQUIRED.—By not later than 270 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into a contract with a non-government entity for the conduct of a survey of a statistically valid sample of individuals who have used or are using their entitlement to educational assistance under chapters 30, 32, 33, and 35 of title 38, United States Code, to pursue a program of education or training. The contract shall provide that—

(1) not later than one month before the collection of data under the survey begins, the survey shall be submitted to the Committees on Veterans’ Affairs of the Senate and House of Representatives;

(2) the non-government entity shall complete the survey and submit to the Secretary the results of the survey by not later than 180 days after entering into the contract; and

(3) the survey shall be conducted by electronic means and by any other means the non-government entity determines appropriate.

(b) INFORMATION TO BE COLLECTED.—The contract under subsection (a) shall provide that the survey shall be designed to collect the following types of information about each individual surveyed, where applicable:

(1) Demographic information, including the highest level of education completed by the individual, the military occupational specialty or specialties of the individual while serving on active duty as a member of the Armed Forces or as a member of the National Guard or of a Reserve Component of the Armed Forces, and whether the individual has a service-connected disability.

(2) The opinion of the individual regarding participation in the transition assistance program under section 1144 of title 10, United States Code, and the effectiveness of the program, including instruction on the use of the benefits under laws administered by the Secretary of Veterans Affairs.

(3) The resources the individual used to help the individual—

(A) decide to use the individual’s entitlement to educational assistance to enroll in a program of education or training; and

(B) choose the program of education or training the individual pursued.

(4) The individual’s goal when the individual enrolled in the program of education or training.

(5) The nature of the individual’s experience with the education benefits processing system of the Department of Veterans Affairs.

(6) The nature of the individual’s experience with the school certifying official of the educational institution where the individual pursued the program of education or training who processed the individual’s claim.

(7) Any services or benefits the educational institution or program of education or training provided to veterans while the individual pursued the program of education or training.

(8) The type of educational institution at which the individual pursued the program of education or training.

(9) Whether the individual completed the program of education or training or the number of credit hours completed by the individual as of the time of the survey, and, if applicable, any degree or certificate obtained by the individual for completing the program.

(10) The employment status of the individual and whether such employment status differs from the employment status of the individual prior to enrolling in the program of education or training.

(11) Whether the individual is or was enrolled in a program of education on a full-time or part-time basis.

(12) The opinion of the individual on the effectiveness of the educational assistance program of the Department of Veterans Affairs under which the individual was entitled to educational assistance.

(13) Whether the individual was ever entitled to a rehabilitation under chapter 31 of title 38, United States Code, and whether the individual participated in such a program.

(14) A description of any circumstances that prevented the individual from using the individual's entitlement to educational assistance to pursue a desired career path or degree.

(15) Whether the individual is using the individual's entitlement to educational assistance to pursue a program of education or training or has transferred such an entitlement to a dependent.

(16) Such other matters as the Secretary determines appropriate.

(c) REPORT.—Not later than 90 days after receiving the results of the survey required under this section, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the survey and any recommendations of the Secretary relating to such results. Such report shall also include an unedited version of the results of the survey submitted by the non-government entity that conducted the study.

**SEC. 407. IMPROVEMENT OF INFORMATION TECHNOLOGY OF THE VETERANS BENEFITS ADMINISTRATION OF THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) PROCESSING OF CERTAIN EDUCATIONAL ASSISTANCE CLAIMS.—The Secretary of Veterans Affairs shall, to the maximum extent possible, make such changes and improvements to the information technology system of the Veterans Benefits Administration of the Department of Veterans Affairs to ensure that—

(1) to the maximum extent possible, all original and supplemental claims for educational assistance under chapter 33 of title 38, United States Code, are adjudicated electronically; and

(2) rules-based processing is used to make decisions with respect to such claims with little human intervention.

(b) IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a plan to implement the changes and improvements described in subsection (a).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report on the implementation of the changes and improvements described in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs \$30,000,000 to carry out this section during fiscal years 2016 and 2017.

**SEC. 408. TECHNICAL AMENDMENT RELATING TO IN-STATE TUITION RATE FOR INDIVIDUALS TO WHOM ENTITLEMENT IS TRANSFERRED UNDER ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM AND POST-9/11 EDUCATIONAL ASSISTANCE.**

(a) TECHNICAL AMENDMENT.—Section 3679(c)(2)(B) of title 38, United States Code, is amended by striking “or 3319 of this title” and all that follows and inserting “of this title or to whom educational assistance is transferred under section 3319 of this title.”

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to a course, semester, or term that begins after July 1, 2016.

## TITLE V—OTHER MATTERS

**SEC. 501. AMOUNT OF LOAN GUARANTEED UNDER HOME LOAN PROGRAM OF DEPARTMENT OF VETERANS AFFAIRS.**

(a) ADJUSTMENT OF LOAN LIMIT.—Section 3703(a)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)(i)(IV)—

(A) by striking “the lesser of”; and

(B) by striking “or 25 percent of the loan”; and

(2) in subparagraph (C), by striking “Freddie Mac” and all that follows through the period at the end and inserting “amount of the loan.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to a loan guaranteed under section 3710 of title 38, United States Code, on or after the date that is 30 days after the date of the enactment of this Act.

**SEC. 502. LONGITUDINAL STUDY OF JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS.**

(a) IN GENERAL.—Chapter 41 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 4115. Longitudinal study of job counseling, training, and placement service for veterans**

“(a) STUDY REQUIRED.—(1) The Secretary shall enter into a contract with a non-government entity to conduct a longitudinal study of a statistically valid sample of

each of the groups of individuals described in paragraph (2). The contract shall provide for the study of each such group over a period of at least five years.

“(2) The groups of individuals described in this paragraph are the following:

“(A) Veterans who have received intensive services.

“(B) Veterans who did not receive intensive services but who otherwise received services under this chapter.

“(C) Veterans who did not seek or receive services under this chapter.

“(3) The study required by this subsection shall include the collection of the following information for each individual who participates in the study:

“(A) The average number of months such individual served on active duty.

“(B) The distribution of disability ratings of such individual.

“(C) Any unemployment benefits received by such individual.

“(D) The average number of months such individual was employed during the year covered by the report.

“(E) The average annual starting and ending salaries of any such individual who was employed during the year covered by the report.

“(F) The average annual income of such individual.

“(G) The average total household income of such individual for the year covered by the report.

“(H) The percentage of such individuals who own their principal residences.

“(I) The employment status of such individual.

“(J) In the case of such an individual who received services under this chapter, whether the individual believes that any service provided by a disabled veterans’ outreach specialist or local veterans’ employment representative helped the individual to become employed.

“(K) In the case of such an individual who believes such a service helped the individual to become employed, whether—

“(i) the individual retained the position of employment for a period of one year or longer; and

“(ii) the individual believes such a service helped the individual to secure a higher wage or salary.

“(L) The conditions under which such individual was discharged or released from the Armed Forces.

“(M) Whether such individual has used any educational assistance to which the individual is entitled under this title.

“(N) Whether such individual has participated in a rehabilitation program under chapter 31 of this title.

“(O) Demographic information about such individual.

“(P) Such other information as the Secretary determines appropriate.

“(b) ANNUAL REPORTS.—(1) By not later than July 1 of each year covered by the study required under subsection (a), the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the outcomes of the study during the preceding year.

“(2) The Secretary shall include in each annual report submitted under paragraph (1) any information the Secretary determines is necessary to determine the long-term outcomes of the individuals in the groups described in subsection (a)(2).”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“4115. Longitudinal study of job counseling, training, and placement service for veterans.”.

**SEC. 503. LIMITATIONS ON SUBCONTRACTS UNDER CONTRACTS WITH SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.**

(a) IN GENERAL.—Section 8127 of title 38, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following new subsection (l):

“(l) LIMITATIONS ON SUBCONTRACTING.—(1)(A) The requirements applicable to a covered small business concern under section 46 of the Small Business Act (15 U.S.C. 657s) shall apply with respect to a small business concern owned and controlled by a veteran with a service-connected disability or a small business concern owned and controlled by a veteran that is awarded a contract that is counted for purposes of meeting the goals under subsection (a).

“(B) For purposes of applying the requirements of section 46 of the Small Business Act (15 U.S.C. 657s) pursuant to subparagraph (A), the term ‘similarly situated entity’ used in such section 46 includes a subcontractor for a small business concern owned and controlled by a veteran with a service-connected disability or a small business concern owned and controlled by a veteran described in such subparagraph (A).

“(2) Before awarding a contract that is counted for purposes of meeting the goals under subsection (a), the Secretary shall obtain from an offeror a certification that

the offeror will comply with the requirements described in paragraph (1)(A) if awarded the contract. Such certification shall—

“(A) specify the exact performance requirements applicable under such paragraph; and

“(B) explicitly acknowledge that the certification is subject to section 1001 of title 18.

“(3) If the Secretary determines that a small business concern that is awarded a contract that is counted for purposes of meeting the goals under subsection (a) did not act in good faith with respect to the requirements described in paragraph (1)(A), the small business concern shall be subject to the penalties specified in—

“(A) section 16(g)(1) of the Small Business Act (15 U.S.C. 645(g)(1)); and

“(B) section 1001 of title 18.

“(4)(A) The Director of Small and Disadvantaged Business Utilization for the Department, established pursuant to section 15(k) of the Small Business Act (15 U.S.C. 644(k)), and the Chief Acquisition Officer of the Department, established pursuant to section 1702 of title 41, shall jointly implement a process using the systems described in section 16(g)(2) of the Small Business Act (15 U.S.C. 645(g)(2)), or any other systems available, to monitor compliance with this subsection. The Chief Acquisition Officer shall refer any violations of this subsection to the Inspector General of the Department.

“(B) Not later than November 30 of each year, the Inspector General shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report for the fiscal year preceding the fiscal year during which the report is submitted that includes, for the fiscal year covered by the report—

“(i) the number of referred violations received under subparagraph (A); and

“(ii) the disposition of such referred violations, including the number of small business concerns suspended or debarred from Federal contracting or referred to the Attorney General for prosecution.”

(b) EFFECTIVE DATE.—Subsection (1) of section 8127 of title 38, United States Code, as added by subsection (a) shall apply with respect to a contract entered into after the date of the enactment of this Act.

**SEC. 504. PROCEDURES FOR PROVISION OF CERTAIN INFORMATION TO STATE VETERANS AGENCIES TO FACILITATE THE FURNISHING OF ASSISTANCE AND BENEFITS TO VETERANS.**

(a) PROCEDURES REQUIRED.—The Secretary of Veterans Affairs shall develop procedures to share the information described in subsection (b) regarding veterans with State veterans agencies in electronic data format as a means of facilitating the furnishing of assistance and benefits to veterans.

(b) COVERED INFORMATION.—The information shared with State veterans agencies under subsection (a) regarding a veteran shall include the following:

(1) Military service and separation data.

(2) A personal email address.

(3) A personal telephone number.

(4) A mailing address.

(c) OPT-OUT ELECTION.—A veteran may elect to prevent their information from being shared with State veterans agencies under subsection (a) pursuant to a process that the Secretary shall establish for purposes of this subsection.

(d) USE OF INFORMATION.—The Secretary shall ensure that the information shared with State veterans agencies in accordance with the procedures developed under subsection (a) is only shared by such agencies with county government veterans service offices for such purposes as the Secretary shall specify for the administration and delivery of assistance and benefits.

Amend the title so as to read:

A bill to amend title 38, United States Code, to make certain improvements in the laws administered by the Secretary of Veterans Affairs relating to health care, educational assistance, and vocational rehabilitation, to establish the Veterans Economic Opportunity and Transition Administration, and for other purposes.

PURPOSE AND SUMMARY

H.R. 3016, the VA Provider Equity Act, was introduced by Representative Wenstrup of Ohio on July 9, 2015. H.R. 3016, as amended, the Veterans Employment, Education, and Healthcare Improvement Act incorporates the text of H.R. 3016 as well as pro-

visions from the following bills: H.R. 272, introduced by Representative Tim Walberg of Michigan on January 12, 2015; H.R. 356, introduced by Representative Sean Patrick Maloney of New York on January 14, 2015; H.R. 359, introduced by Representative Steve Stivers of Ohio on January 14, 2015; H.R. 423, introduced by Representative Doug Collins of Georgia on January 21, 2015; H.R. 475, introduced by Representative Brad Wenstrup of Ohio on January 22, 2015; H.R. 476, introduced by Representative Brad Wenstrup of Ohio on January 22, 2015; H.R. 643, introduced by Representative Gus Bilirakis of Florida on February 2, 2015; H.R. 832, introduced by Representative Paul Cook of California on February 10, 2015; H.R. 1015, introduced by Representative Tim Huelskamp of Kansas on February 20, 2015; H.R. 1141, introduced by Representative Mark Takano of California on February 26, 2015; H.R. 1187, introduced by Representative Lee Zeldin of New York on February 27, 2015; H.R. 1862, introduced Representative Charles Boustany of Louisiana on April 16, 2015; H.R. 2275, introduced by Representative Jeff Miller of Florida on May 12, 2015; H.R. 2344 introduced by Representative Brad Wenstrup of Ohio on May 14, 2015; H.R. 2531, and introduced by Representative Tammy Duckworth of Illinois on May 21, 2015.

H.R. 3016, as amended, would: (1) make Doctors of Podiatric Medicine (podiatrists) equal to Doctors of Osteopathy (DOs) and Medical Doctors (MDs) within VA in terms of pay, promotion, and leadership potential within the U.S. Department of Veterans Affairs (VA) health care system and amend VA's definition of "physician" to include podiatrists; (2) increase, from third to first, the priority for enrollment in the VA health care system given to Medal of Honor (MOH) recipients and exempt MOH recipients from having to pay co-payments for inpatient care, outpatient care, long-term care, and prescription medications; (3) allow VA to provide the newborn child of a female veteran who is receiving VA provided maternity care with post-delivery care services for 42 days after the child's birth if the veteran delivered the child in a VA facility or another facility with which VA has a contract for such services; (4) require the Government Accountability Office (GAO) to conduct periodic audits of the VA health care budget; (5) require VA to conduct outreach to and establish a toll-free number for veterans with credit issues caused by a delayed payment of a claim for emergency hospital care, medical services, or other emergency health care furnished through a non-VA provider, report on the number of pending claims and VA's effectiveness in providing timely payment of proper invoices for emergency hospital care, medical services, or other emergency health care furnished through non-VA providers, and require GAO to conduct a study that evaluates the effectiveness of the Chief Business Office (CBO) in providing timely payment of a proper invoice for such care by the required payment date; (6) direct VA to carry out a 5-year pilot program to assess the effectiveness of addressing veterans' post-traumatic stress disorder (PTSD) and post-deployment mental health issues through the therapeutic medium of service dog training and handling; (7) authorize the creation of the new Veterans Economic Opportunity and Transition Administration (VEOTA) at VA; (8) transfer all programs and functions of the U.S. Department of Labor's (DoL) Veterans Employment and Training Service (VETS) to VA under the

new VEOTA; (9) make various improvements to the G.I. Bill program; (10) provide eligibility for the Post-9/11 GI Bill for servicemembers on certain military orders; (11) improve the processing of vocational rehabilitation and education (VR&E) benefits; (12) eliminate the current monetary cap for a VA-backed home loan; (14) make changes to protect small businesses that are owned and controlled by veterans; and (15) authorize a new longitudinal study on outcomes of job training and placement programs for veterans.

## BACKGROUND AND NEED FOR LEGISLATION

### TITLE I—VETERANS HEALTH CARE

#### *Section 101—Role of podiatrists in the Department of Veterans Affairs*

According to VA data regarding health care utilization among veterans of Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn, of the approximately 61 percent of veterans newly separated from service in the Armed Forces who have used VA health care since October 1, 2001, the most common diagnosis was for a musculoskeletal ailment. Some of these musculoskeletal ailments are the result of lower extremity injuries inflicted by improvised explosive devices on the battlefield. Musculoskeletal ailments are also an increasingly prevalent concern among veterans of previous generations who may be struggling with lower extremity issues exacerbated by aging, chronic conditions like diabetes, and complications resulting from military service. The recruitment and retention of podiatrists at VA medical facilities is critical to ensuring that these veterans are provided with high-quality care. However, VA's qualifications for podiatrists were developed in 1976 and have not been updated in the 39 years since. In that time, the practice of podiatry has evolved significantly. Because VA's podiatric service has not kept pace with these changes, VA podiatrists experience disparities in recognition and pay when compared to their non-VA peers. During a May 15, 2015, Subcommittee on Health hearing on VA staffing, a representative from the American Podiatric Medical Association testified that there was a, “. . . marked disparity in recognition and pay of podiatrists as physicians in the VA [healthcare system]. These discrepancies have directly resulted in a severe recruitment issue of experienced podiatrists into the VA, and unfortunately have also been the direct cause of retention issues.”

To address this, Section 101 of the bill would make podiatrists equal to DOs and MDs within VA in terms of pay, make podiatrists eligible for the same promotions and leadership positions within VA as DOs and MDs, and amend VA's definition of “physician” to include podiatrists. The Committee believes that this will correct long-standing inequities between the treatment of podiatrists in VA medical facilities and podiatrists' practices in the private sector and significantly improve VA's ability to recruit and retain high-quality podiatrists within the VA health care system.

*Section 102—Priority of Medal of Honor recipients in health care system of Department of Veterans Affairs*

Eligibility for the VA health care system is governed by a system of eight enrollment priority groups. Medal of Honor (MOH) recipients—who have been granted the highest award for valor that can be bestowed upon an individual for service in the United States Armed Forces—are eligible to be enrolled in the VA healthcare system under priority group 3. Other veterans eligible for enrollment under priority group 3 include former Prisoners of War, Purple Heart recipients, veterans whose discharge was for a disability that was incurred or aggravated in the line of duty, veterans with a VA-rated service-connected disability of 10 percent or 20 percent, and veterans awarded special eligibility for purposes of receiving vocational rehabilitation benefits. Veterans in priority group 3 are required to pay applicable VA copayments for certain care.

Given the extraordinary service that MOH recipients have provided our nation, the Committee believes that these veterans should be granted the highest priority for care and should not be required to pay copayments for the care that they receive through VA. As such, Section 102 of the bill would increase, from third to first, the priority for enrollment in the VA health care system given to MOH recipients and would also exempt MOH recipients from having to pay co-payments for inpatient care, outpatient care, long-term care, and prescription medications.

*Section 103—Improvement of care provided to newborn children*

During the 111th Congress, the Caregivers and Veterans Omnibus Health Services Act of 2010 (P.L. 111–163, 124 Stat. 1130) authorized VA to furnish care to a newborn child of a female veteran receiving VA-provided maternity care for up to seven days following the birth of the child, if the female veteran delivered the newborn child in a VA facility or in another facility pursuant to a VA contract. Prior to this Act, VA had been authorized to provide maternity care to female veterans but had not been authorized to provide care to the newborn child of a female veteran. VA-provided newborn care, like VA-provided maternity care, is typically provided by non-VA providers in non-VA facilities at VA's expense. VA defines newborn care as any care provided to an infant once the umbilical cord connecting it to its mother has been severed.

The number of female veterans requiring VA-provided maternity and newborn care is rising. VA expects female veterans to deliver 2,157 newborns in Fiscal Year (FY) 2016, with 11 percent of those births expected to require inpatient hospitalization beyond the seven days that VA can currently cover. Further, VA expects the number of female veteran births to rise by approximately ten percent from FY 2017 to FY 2025, with the number of newborns delivered preterm or with low birth weight projected to increase 11 percent per year over that same time frame. What's more, there is evidence to suggest that female veterans, particularly those with PTSD are at an increased risk for birth complications. According to a 2014 study conducted by VA and the Stanford University School of Medicine, a woman's risk of spontaneous premature delivery increases by 35 percent if the woman has PTSD in the year before delivery. The study team analyzed the 16,344 births that VA covered from 2000 to 2012 and found that 3,049 infants were born to

female veterans with a PTSD diagnosis. Of those, there were 1,921 births to female veterans with a PTSD diagnosis in the year prior to giving birth.

Section 103 of the bill would authorize VA to provide the newborn child of a woman veteran who is receiving VA maternity care with post-delivery care services for 42 days (six weeks) after the child's birth if the veteran delivered the child in a VA facility or another facility with which VA has a contract for such services. This would make VA-provided newborn care more equivalent to VA-provided maternity care in length, which generally begins with the confirmation of pregnancy and continues through the postpartum visit 6 to 8 weeks after delivery.

*Section 104—Comptroller general audit of budget of Veterans Health Administration*

The Veterans Health Care Budget Reform and Transparency Act of 2009 (P.L. 111–81, 123 Stat. 2137) required GAO to report on the President's annual budget request to Congress for VA health care services. In response to this mandate, GAO studied the consistency, transparency, and reliability of the information in VA's congressional budget justifications and VA's Enrollee Health Care Projection Model (EHCPM). GAO's last report conducted in accordance with this budget mandate was released in 2013. In June 2015, the Committee uncovered a multi-billion dollar shortfall in VA's Medical Services account which threatened VA's ability to continue treating veteran patients through the remainder of FY 2015. According to VA, this shortfall was driven by increased demand for non-VA care and rising costs of Hepatitis C treatments. To prevent a nationwide VA health care system shutdown, Congress passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (P.L. 114–41, 129 Stat. 443), which included a section authorizing VA to access \$3.348 billion from the Veterans Choice Fund to cover the costs of non-VA care and Hepatitis C treatments through the end of the FY 2015. However, while that action addressed VA's short-term VA health care budget concerns, it also highlighted the need for continuing audits of VA's health care budget.

To add context to the requirement set forth in this section, VA's FY15 financial report was released on November 16, 2015. While the auditor gave VA's financial statements an unmodified, i.e. "clean" opinion, internal controls have deteriorated. VA now has material weaknesses in its IT security controls, procurement, purchased care processing and reconciliation, and financial reporting. VA has significant deficiencies in operating expense accrual and the organization of its office of the Chief Financial Officer. In addition, Anti-deficiency Act violations and noncompliance with section 5315 of title 38, U.S.C. (dealing with interest on and recovery of delinquent benefits payments) continue, and there are new non-compliances with the Federal Managers' Financial Integrity Act and the Improper Payments Elimination and Recovery Act. The overall picture of financial operations in VA has worsened from FY14.

As such, Section 104 of the bill would require GAO to conduct periodic audits of the Veterans Health Administration (VHA) budget. In determining which aspect of VHA's budget to audit, GAO

would be required to take into account current issues, national priorities, and priorities expressed by the House and Senate Committees on Veterans' Affairs, Appropriations, and Budget and to submit notice to those same committees 30 days before conducting the audit. This would ensure that GAO's work is in line with the specific aspects of VA's health care budget that are of the highest interest and value to Congress.

*Section 105—Outreach to Veterans regarding effect of certain delayed payments by Department of Veterans Affairs chief business office*

Regulations issued in response to the Prompt Payment Act (chapter 39 of title 31, U.S.C.),<sup>1</sup> stipulates that valid and proper invoices submitted by vendors must be paid on time by federal agencies. VA's ability to timely and accurately process payments to non-VA providers, in compliance with the prompt payment rule, is increasingly important as the number of veterans receiving care from non-VA providers continues to rise significantly. The Veterans Access, Choice, and Accountability Act of 2014 (P.L. 113-146, 128 Stat. 1754) (Choice Act) included two provisions aimed at improving the timeliness of VA's payments to non-VA providers. However, since the passage of the law, anecdotal reports continue to indicate that VA is not meeting this target or otherwise complying with the prompt payment rule. In the last year, the Committee has heard from health care entities ranging from large-scale hospital corporations to individual providers who report either nonpayment or extremely delayed and/or inaccurate payments on the part of VA. This has resulted in millions of dollars of unpaid debt, which, in some cases, has been transferred to the veteran patient.

To assist veterans who have been penalized due to VA's inability or unwillingness to pay non-VA providers in a timely manner, Section 105 of the bill would require VA to conduct outreach to inform veterans of how to resolve credit issues caused by a delayed payment of a claim for emergency hospital care, medical services, or other emergency health care furnished through a non-VA provider. VA would also be required to establish a toll-free telephone number for veterans to report credit issues resulting from VA delayed or inaccurate payment to the VA CBO. This Section would also require VA to report to Congress annually on the Department's effectiveness in providing timely payment for care furnished through non-VA providers and quarterly reports on the number of pending claims for reimbursement by non-VA providers. This would ensure that the Committee is continually kept informed of VA's progress complying with the prompt payment rule while also ensuring that veterans are provided resources to assist them in resolving credit issues that may result from delayed or inaccurate payments on the part of VA.

*Section 106—Department of Veterans Affairs pilot program on dog training therapy*

Given the prevalence of PTSD and other post-deployment mental health issues among the veteran population, Congress has recognized the need to provide veterans seeking treatment for mental

<sup>1</sup> 5 C.F.R. Part 1315.

health issues with newer and more innovative therapies. One of these therapies is service dog training therapy, which is believed to help address symptoms associated with PTSD and post-deployment mental health issues without the use of pharmaceuticals. Currently, therapeutic service dog training programs for servicemembers and veterans are ongoing at the Walter Reed National Military Medical Center, the National Intrepid Center of Excellence, the Palo Alto VA Medical Center, the Fort Belvoir Warrior Transition Brigade, the NeuroRestorative Residential Treatment Center, and the Warrior Canine Connection Healing Quarters. Anecdotal reports from servicemembers and veterans who have sought care through these programs have been positive, including improved emotional regulation, sleep patterns, and sense of personal safety as well as reduced levels of anxiety and social isolation. According to a statement for the record provided to the Subcommittee on Health by Warrior Canine Connection for a Subcommittee legislative hearing on July 14, 2015, service dog training programs for veterans with mental health issues benefits veterans in the following ways:

In teaching the dogs that the world is a safe place, the Warrior Trainers challenge their symptoms of combat stress. By focusing on preparing the dogs for service as the partners of disabled veterans, they are motivated and able to visit places they usually avoid, like stores, restaurants, and crowded public transportation stations. The program also emphasizes positive reinforcement, emotional affect, consistency, and patience—tools that make Warrior Trainers better parents and improve their family relationships.

Section 106 of the bill would require VA to carry out a five-year pilot program to assess the effectiveness of addressing veterans' post-deployment mental health and PTSD symptoms through the therapeutic medium of service dog training and handling. This would provide needed data regarding the effectiveness of service dog training for reducing symptoms of mental illness among the veteran population. In carrying out the pilot, VA would be required to contract with appropriate nongovernmental entities certified in the training and handling of service dogs located in close proximity to at least three but no more than five VA medical centers with a training area that would be appropriate for use in educating veterans with mental health conditions in the art and science of service dog training and handling. This would enable more veterans with mental health concerns to participate in service dog training programs, which the Committee hopes will assist them in reintegrating healthfully back into the community. Upon completion of the pilot, the trained service dogs would be provided to veterans with disabilities, thereby providing the veterans participating in the pilot with an opportunity to help their fellow veterans. The pilot program would have the added benefit of providing a possible career path to veterans who successfully graduate from the program and are interested in becoming certified dog trainers.

TITLE II—VETERANS ECONOMIC OPPORTUNITY AND TRANSITION  
ADMINISTRATION*Section 201—Establishment of Veteran Economic Opportunity and  
Transition Administration of Department of Veterans Affairs*

Currently, title 38, U.S.C. establishes three separate Administrations within VA. Chapter 73 of title 38, U.S.C. establishes the VHA, which manages all VA health care related facilities and programs. Chapter 77 of title 38, U.S.C., establishes the Veterans Benefits Administration (VBA), which is responsible for the administration of all benefit programs, including compensation, pension, insurance, educational assistance and training programs, and loan guaranty programs. Chapter 24 of title 38, U.S.C. establishes the National Cemetery Administration (NCA), which manages over 131 National Cemeteries and other burial-related facilities and programs.

VA's disability compensation program is a highly complex program, designed to provide monthly payments for disabilities incurred or aggravated in military service. With the wars in the Middle East and the aging of the veterans population in general, the number of compensation claims that have been received by VA has continued to increase. As of August 29, 2015, there are still 356,765 disability claims backlogged at VA, and over 25 percent of these claims have been pending for more than 125 days. These backlogged claims continue to draw considerable criticism from the veterans' community, as well as Congress, and the media.

In the 109th Congress, the Committee recognized the importance of focusing on programs that increase economic opportunities for veterans and lessen reliance on long-term government assistance by creating the Subcommittee on Economic Opportunity. This Subcommittee has jurisdiction over education and training, employment, home loan, and other programs that focus on a veteran's ability to obtain and retain meaningful employment. The Committee believes that this increased focus and specialization has brought greater attention and needed oversight to these programs that seek to enable veterans to live economically-productive lives.

Understandably, senior VBA leaders spend considerable time and resources focusing on decreasing the inventory of disability compensation claims at the expense of time and focus needed for other benefit programs. Over time, this has led to less leadership attention to the non-compensation programs. As an example, the Administration's FY 2016 budget request includes funds to support 21,101 full time equivalent employees (FTEE) for VBA. Of this number, 17,119 FTEE were requested to administer disability compensation, pension, burial, dependency indemnity compensation, and fiduciary programs while only 4,752 FTEE were requested for other programs.

The number of FTEE for disability compensation and pension has ballooned by 8,160, or 91 percent, since FY 2005, while over this same time period, the FTEE for other programs at VBA has not grown at the same rate. While it is important to increase staffing to attack the current backlog, the Committee believes that the focus on disability compensation and pension results in a lack of attention being given to the lengthy waits for benefits from the education, vocational rehabilitation, and loan guaranty programs

and only undermines the potential for veterans to improve their lives through programs that increase economic opportunities.

Therefore, to ensure more effective oversight of those programs, the Committee believes that separating the compensation and pension programs from programs which lead to increased employability and economic success would be appropriate. Section 201 would, therefore, create chapter 80 in title 38, U.S.C., to establish the Veterans Economic Opportunity and Transition Administration, which would manage the G.I. Bill, Home Loan Guaranty, and Vocational Rehabilitation and Employment (VR&E) programs, as well as all employment programs currently administered by DoL's VETS.

Additionally, section 8127 of title 38, U.S.C., established a program to assist VA in meeting the statutory goals for procurement of goods and services from service disabled veteran-owned small businesses. Because small business ownership can be a significant contributor to economic success and due to VA's continued difficulty in administering the service-disabled veteran-owned small business program, Section 201 would place the program authorized by section 8127 of title 38, U.S.C., under the supervision of VEOTA.

The Committee also believes that with the significant growth in VA employees, it would be appropriate to staff the new VEOTA using existing personnel resources, so this Section would also cap the amount of combined FTEE at both VBA and VEOTA to no more than 22,118 FTEE for FY 2017 and FY 2018. Finally, in order for the organization of the VEOTA to take place in an orderly and efficient manner, the amendments made by this Section and title would not go into effect until October 1, 2016. The Committee believes this gives VA and DoL enough time to allow for a smooth transition in the re-alignment these programs within VEOTA.

*Section 202—Under Secretary for Veterans Economic Opportunity and Transition*

Section 202 of the bill would amend title 38, U.S.C., by creating the position of Under Secretary for Veterans Economic Opportunity and Transition to oversee all VEOTA programs and operations. This Section would complement Section 201 of this bill by creating this Under Secretary position to put the new VEOTA on par with other administrations within VA.

Under this Section, the new Under Secretary would be appointed by the President with the advice and consent of the Senate. The Section would also require that the Under Secretary have a demonstrated ability in the use of information technology (IT) and administration of programs similar to those in the new VEOTA. The Section would also require that when there is a vacancy for this position, the Secretary would be required to convene a commission to recommend individuals to the President for appointment, and that the commission consist of individuals who represent a cross section of the programs administered by the VEOTA. While the President is not bound to appoint any individuals recommended by the commission, the Committee would expect that the commission's recommendations be seriously considered during the appointment process. Finally, the Committee would also expect the commission to recommend individuals who have private sector experience in running programs similar to those under VEOTA.

*Section 203—Transfer of Department of Labor Veterans programs to Department of Veterans Affairs*

The Committee believes that one of the most important missions of the federal government is to help returning servicemembers and veterans find and maintain meaningful and gainful employment. Many problems and negative life experiences that veterans may experience can be mitigated, or avoided all together, by having well-paying jobs that adequately provide for them and their families. The Committee believes that is why the programs administered by VETS are so critically important to veterans' success. The Department of Labor (DoL) should be ensuring that the employment programs it administers for veterans under chapters 21, 41, 42, and 43 of title 38, U.S.C., are the crown jewels of their employment programs. The most important of these programs is the Jobs for Veterans State Grant (JVSG) program, which provides grants to states to fund job placement and employment counselors called Disabled Veteran Outreach Program Specialists (DVOPS) and Local Veteran Employment Representatives (LVERs). These counselors are the front line state government employees tasked with employment training and job placement for disabled and non-disabled veterans. Unfortunately, it has become clear to the Committee, and many others, that programs administered by VETS are lost in myriad of other programs and priorities at DoL and that senior DoL leaders, regardless of party, have consistently failed to advocate for, and exercise effective oversight of VETS' programs.

While the Committee will admit that services have minimally improved over the years, since 1997, there have been more than 16 reports conducted by the GAO or other entities that have consistently shown that VETS has been unable to provide adequate oversight over the JVSG program and failed to implement adequate performance metrics to determine the quality of services provided to veterans seeking employment. Additionally, despite legislative attempts to improve cooperation and coordination with VA employment and training programs, there is still little evidence of the desired synergy between VA and VETS. The Committee believes this is largely due to the normal bureaucratic inertia inherent in getting multiple executive branch departments to coordinate programs. Transferring VETS to VA would eliminate that obstacle to improving performance of the Jobs for Veterans State Grant Program.

The Committee's negative view of VETS' programs is shared by numerous veteran service organizations. At a February 12, 2015, Subcommittee on Economic Opportunity oversight hearing on VETS' FY 2016 budget and overall performance, several veteran service organizations expressed displeasure with the current performance of VETS and low priority that DoL places on veterans' programs. The following quotes are from testimony by veterans organizations provided to the Subcommittee at this hearing:

“Each Secretary of Labor for the last thirty years, including the current Secretary, could have used part of the Secretary's contingency fund from what is now known as the Workforce Investment Act (WIA) to drive behavior in states and local areas that help veterans by according incentive grants to those who do the best job of actually plac-

ing veterans in real jobs. None have done so, which renders their rhetoric even more empty and hollow when they hold their by invitation only “Salute to All America Veterans” in the Great Hall or another venue in the Francis Perkins Building (USDOL Headquarters) just before Veterans Day each year. Security is always tight, lest any rank and file veterans get in, and unemployed veterans need not apply.”—Vietnam Veterans of America

“The American Legion has long supported DOL-VETS, because we believe that when it comes to employment no one has more expertise and experience. For our efforts, we have been rewarded with ongoing program management problems, a lack of accountability and oversight, an agency too truculent to make sensible policy changes, and a veterans’ office within the agency that fails to view Veteran Service Organizations as partners in the work of improving federal employment services for veterans. It has become painfully clear to us that the agency with the monumental task of keeping America gainfully employed is unable or unwilling to give the requisite attention to veterans’ employment issues that we know our constituents deserve.”—The American Legion

To finally address these concerns, Section 203 would transfer all of the programs administered by VETS to the new VEOTA. The Section would require that all unused appropriated funds, proceedings, suits, administrative procedures, rules, and regulations that are currently in place for VETS would not change, but be transferred to VA. This Section would also require that all of VETS’ employees transfer to this new administration at VA, and it would be the Committee’s expectation that this change would not be the cause of any current career federal staff members losing their jobs. The transfer would be effective on October 1, 2016. The Section would also require that within 180 days of the transfer, VA and DoL enter into a memorandum of understanding to include a description of how VA would coordinate with DoL’s Employment and Training Agency (ETA) to ensure coordination of services and performance metrics required by the Workforce Innovation and Opportunity Act (P.L. 113–128, 128 Stat. 1425) once the transfer of VETS is complete. The Committee believes that this coordination with ETA is needed to ensure that the employment programs that would become a part of VA do not duplicate efforts and that they meet performance metrics of employment programs overseen by ETA.

In addition to their criticism of VETS performance, the move to VA has also been supported by a large number of veteran service organizations including: The American Legion, Iraq and Afghanistan Veterans of America (IAVA), The Veterans of Foreign Wars of the United States, Paralyzed Veterans of America, Vietnam Veterans of America, and Disabled American Veterans (DAV). The following is a selection of quotes from testimony provided by veteran service organizations at the Subcommittee legislative hearing on this Section on June 2, 2015:

“The creation of a new VA administration that would manage all these programs is a logical, responsible step for

Congress to take through this legislative mandate. Plus, important to DAV, we believe consolidation offers the potential to streamline and enhance the prospects and training possibilities for wounded, injured and ill wartime veterans, for them to overcome employment obstacles, and open up opportunity for them in their post-service lives. . . . Veterans who truly sacrifice themselves in war need a hand up, not a handout. Reforming this important function of government that leads them to rewarding private employment would provide them that hand.”—Disabled American Veterans

“We believe that placing all veterans’ employment programs under a single authority will improve congressional oversight and government efficiency. . . . By aligning VETS programs with the veteran-centric mission of VA, veterans will have easier access to employment services.”—Veterans of Foreign Wars of the United States

“Veterans we speak to have long reported overlapping services have clouded options rather than clarified them. GAO reports and feedback from our annual member survey have indicated the performance of LVERs and DVOPS under DoL VETS has been stagnant at best and not shown the improvement needed to help veterans begin careers. Ineffective oversight and the incongruent placement of this service within a myriad of other programs over at DoL has not proven to be a positive fit.”—Iraq and Afghanistan Veterans of America

The Committee believes that this transfer would not only provide a new level of oversight of employment programs that are currently overseen by VETS, but it would also place these programs under the new VEOTA with other veteran education and training programs, which would result in increased collaboration, reduced duplication, and improved opportunities for veterans. The Committee understands that this transfer is a major re-alignment of current services, so it does not propose moving VETS to VA lightly. However, the Committee believes that this re-alignment will result in fewer veterans using expensive government assistance services which will ultimately lead to better outcomes for veterans and in turn will help our economy grow.

*Section 204—Deputy Under Secretary for Veterans Affairs for Veterans Employment, Training, and Transition*

Section 204 would clarify that the new Deputy Under Secretary for Veterans Employment, Training, and Transition would be responsible for the programs that were previously under the jurisdiction of the Assistant Secretary for Veterans Employment and Training at DoL.

*Section 205—Additional technical and conforming amendments*

Section 205 would provide various technical and conforming amendments to chapters 20, 41, 42, and 43 of title 38, U.S.C., to complete the transfer of VETS to VA and the creation of the VEOTA.

*Section 206—Use of Federal Directory of New Hires*

Section 206 would authorize the new Under Secretary for Veterans Economic Opportunity and Transition access to the National Directory of New Hires. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193, 110 Stat. 2105) created the National Directory of New Hires that was designed to use state employment and unemployment data and Federal agencies' data to help state agencies track down non-custodial parents who owe child support. Employers across the country are required to notify the new hires directory when they hire a new employee. This requirement makes this directory the most up to date system for tracking employment in the country. The Committee believes that allowing the Under Secretary for the VEOTA to have access to this database would greatly assist in tracking employment outcomes of veterans.

TITLE III—EDUCATION ASSISTANCE AND VOCATIONAL REHABILITATION

*Section 301—Modification and improvement of transfer of unused education benefits to family members under Department of Veterans Affairs Post-9/11 Educational Assistance Program*

Title V of the Supplemental Appropriations Act of 2008 (P.L. 110–252, 122 Stat. 2323, 2358 et seq.) created chapter 33 of title 38, U.S.C., which authorized the Post-9/11 G.I. Bill. Section 3319 of title 38, U.S.C., authorized eligible servicemembers to transfer unused education benefits under the Post-99/11 G.I. Bill to family members. Section 3319 requires that the servicemember must make an election to transfer unused benefits to a dependent only while they are still on active duty. In order to be eligible to transfer this benefit, the servicemember must have already served six years on active duty and agreed to serve an additional four years of active duty. This provision was added to the Post-9/11 G.I. Bill as a retention incentive.<sup>2</sup>

Subtitle H of the National Defense Authorization Act for Fiscal Year 2013<sup>3</sup> established the Military Compensation and Retirement Modernization Commission (MCRMC). The commissioners were appointed by both Congress and the President on a bipartisan basis and represent years of experience in military and veterans policy. The primary mission of the MCRMC was to realign the pay and benefits for servicemembers and veterans to maintain a professional all-volunteer force, during war time and peacetime.<sup>4</sup>

The final report with the MCRMC's recommendations was submitted to Congress in January 2015 and was the culmination of the MCRMC's work, which included numerous studies and surveys of servicemembers regarding pay and benefits. The MCRMC recommended that the eligibility for transferability of Post-9/11 G.I. Bill benefits should be adjusted to require servicemembers to serve ten years and sign up for an additional two years. The MCRMC recommended this to improve retention and the use of the education benefits by servicemembers. The MCRMC found:

<sup>2</sup>See "Welcome to the Air Force's Post-9/11 GI Bill webpage" accessed at <http://www.afpc.af.mil/library/gibill/>.

<sup>3</sup>P.L. 112–239, 126 Stat. 1632.

<sup>4</sup><http://mldc.whs.mil/faq>.

The average DoD continuation rate from 1980 to 2010 for a servicemember at 6 years of service [YOS] is 35.3 percent while the average continuation rate for a servicemember at 10 YOS is 19.3 percent. Offering transferability at 10 YOS instead of 6 would enable the services to increase retention at this critical point in a military career.<sup>5</sup>

The MCRMC also recommended that the housing and living stipend provided to spouses and children who were using transferred Post-9/11 G.I. Bill benefits be eliminated. This recommendation was based on that the fact that in many cases, the living stipend was significantly higher than the cost of room and board at most schools. The MCRMC's final report stated:

The Post-9/11 G.I. Bill housing stipend often exceeds the actual housing costs of dependent beneficiaries. For example, in academic year 2013–2014, New School University in New York reportedly had the highest estimated room and board cost in the country at \$18,490. The BAH [Basic Allowance for Housing] per month for an E5 with dependents in New York City in 2013 was \$3,258, and for 2014 it was \$3,744. Assuming a 9-month academic year, a student using Post-9/11 G.I. Bill benefits at New School for 2013–2014 would receive \$31,752, which is \$13,262 more than the estimated cost of room and board. Northwestern Oklahoma State University in Alva, OK reportedly had the lowest estimated room and board cost in the United States in academic year 2013–2014, at \$3,900. Using the same assumptions, a student using Post-9/11 G.I. Bill benefits would receive \$8,658 in BAH, \$4,758 more than the estimated cost of room and board.<sup>6</sup>

Section 301, would implement the MCRMC's recommendations on transferability with minor modifications. The Committee agrees that the change in eligibility requirements for transferability benefits is necessary to improve retention, and Section 301 would amend section 3319 of title 38, U.S.C., to implement the MCRMC's recommendations. While the MCRMC recommended that the Committee eliminate all living stipend benefits for transferees of Post-9/11 G.I. Bill benefits, the Committee believes this would be a step too far for spouses who have also made sacrifices for the nation in their support of their spouse's service. While the Committee agrees that a full elimination in the living stipend for servicemember's children is justifiable, Section 301 would only reduce the living stipend benefits for children by half. These amendments would take effect for elections to transfer benefits made 180 days following enactment of this bill.

*Section 302—Clarification of eligibility for the Marine Gunnery Sergeant John David Fry Scholarship*

Section 3311 of title 38, U.S.C., establishes the Marine Gunnery Sergeant John David Fry Scholarship, (Fry Scholarship), which provides Post-9/11 G.I. Bill benefits to the children and surviving

<sup>5</sup>Final Report of the Military Compensation and Retirement Modernization Commission. Page 169. <http://mldc.whs.mil/public/docs/report/MCRMC-FinalReport-29JAN15-HI.pdf>.

<sup>6</sup>Final Report of the Military Compensation and Retirement Modernization Commission. Page 167 and 168. <http://mldc.whs.mil/public/docs/report/MCRMC-FinalReport-29JAN15-HI.pdf>.

spouses of servicemembers who die in the line of duty while on active duty after September 10, 2001. The original Fry Scholarship authorized by chapter 33 of title 38, U.S.C., only provided Post-9/11 G.I. Bill benefits to eligible children. Prior to the Choice Act, surviving spouses were only eligible to receive education assistance under chapter 35 of title 38, U.S.C. Section 701 of the Choice Act extended these same benefits to spouses of servicemembers who die in the line of duty. Eligible beneficiaries may receive up to 36 months of Post-9/11 G.I. Bill benefits at the 100 percent level. Under current law, eligible surviving spouses may use such assistance until they remarry or until 15 years after their military spouse's death, whichever occurs sooner.

After the Choice Act was signed into law, the Committee heard concerns from many veterans' organizations, most notably from the Gold Star Wives of America and the Tragedy Assistance Program for Survivors, regarding the amount of time, or lack thereof, which many surviving spouses had left to use this benefit. Due to the 15 year delimitating date, surviving spouses whose military spouse died in the line of duty between September 11, 2001 and January 1, 2006, would not have enough time to use 100 percent of the benefit. It was the Committee's intention when expanding this benefit to surviving spouses in the Choice Act to allow all eligible surviving spouses to receive 100 percent of the benefit.

Section 302(a), therefore, would amend the Choice Act and deem that, for purposes of this benefit, any member of the Armed Forces who died between September 11, 2001 and December 31, 2005, effectively died on January 1, 2006. This would ensure that all eligible surviving spouses are able to receive 100 percent of the Fry Scholarship.

Due to the delimitating date included in the Choice Act, many surviving spouses whose spouses died between September 11, 2001 and December 31, 2005, may have made an irrevocable decision to receive education benefits through chapter 35 of title 38, U.S.C., so that they could have more time to use their benefits. Currently, if they have chosen to use chapter 35 education benefits in lieu of the Fry Scholarship, that decision is irrevocable. Due to the expansion of eligible time to use the Fry Scholarship in this Act, the Committee believes it is important to allow these surviving spouses to revoke their prior election to use chapter 35 education benefits instead of the Fry Scholarship. Section 302(b), therefore, would allow a surviving spouse of a servicemember who died between September 11, 2001 and December 31, 2005, to revoke their election to receive educational benefits under chapter 35 instead of the Fry Scholarship.

The Post-9/11 G.I. Bill will cover a large amount of school costs, but many private schools cost an additional amount than what is provided in statute, and in cases where a veteran is not eligible for the in-state tuition rate, the cost to attend public school can exceed what is allowable by law. Section 3317 of title 38, U.S.C., authorizes the Yellow Ribbon program, which assists with these additional costs and authorizes VA to enter into agreements with private and public schools to pay a dollar-for-dollar matching grant to cover the additional tuition costs beyond what is provided in the tuition and fee cap for the Post-9/11 G.I. Bill in section 3313(c) of title 38, U.S.C. Under current law, individuals using the Fry Schol-

arship are not also eligible to use the Yellow Ribbon program to pay for the rest of their tuition amount beyond what is provided in the

Post-9/11 G.I. Bill. The Committee believes that it was not the intention of Congress to limit the Fry Scholarship to exclude children and spouses of servicemembers who have died in the line of duty from being able to utilize the Yellow Ribbon program. Section 302(d), therefore, would amend section 3317(a) of title 38, U.S.C., to allow individuals eligible for the Fry Scholarship to also be eligible to use the Yellow Ribbon Program while they attend school.

*Section 303—Approval of courses of education and training for purposes of the Vocational Rehabilitation Program of the Department of Veterans Affairs*

Chapter 31 of title 38, U.S.C., sets up the parameters for disabled veterans to receive services through VA's VR&E service. Through this program, eligible veterans and servicemembers receive personalized rehabilitation plans that help prepare them for employment or, in the case of severely disabled veterans, maximum daily independent living. Through this program, veterans and servicemembers are eligible for educational, vocational, psychological, employment and personal readjustment counseling. According to VA's Annual Benefits Report for FY 2013, over 90 percent of VR&E participants choose a formal post-secondary education or training program option including non-accredited and G.I. Bill approved training programs.<sup>7</sup>

While the Committee understands the need for flexibility when creating rehabilitation plans that best fit the needs of an individual veteran, it would be appropriate for VR&E counselors to ensure, wherever possible, that the program of education is approved for G.I. Bill benefits. These programs undergo a thorough review by VA or State Approving Agencies (SAAs) and are required to meet a selection of rigorous criteria for approval. This process protects veterans and taxpayers alike from unscrupulous actors. Therefore, Section 303 would amend section 3105(b) of title 38, U.S.C., to require that, to the maximum extent possible, a course of education or training pursued through the VR&E program must be approved for benefits under chapters 30 or 33 of title 38, U.S.C. Under this Section, the Secretary would have waiver authority for this provision and current classes that are approved for VR&E benefits, but G.I. Bill benefits would not be impacted until one year following enactment.

*Section 304—Authority to prioritize Vocational Rehabilitation Services based on need*

As more and more veterans become eligible for VR&E services, based on the increased number of pending claims for disability compensation, the Committee remains concerned about the growing VR&E counselor-to-participant ratio. In FY 2013, VA provided VR&E services to 123,383 veterans, and they have estimated this number will increase by over 14,000 in FY 2016. As the number of veterans receiving services has increased, the number of VR&E

<sup>7</sup>VBA Annual Benefits Report for FY2013. Page 7. <http://www.benefits.va.gov/REPORTS/abr/ABR-VocRehab-FY13-09262014.pdf>

counselors has remained relatively flat. This means the caseload for each counselor has increased significantly, which translates into reduced services for veterans. As the Secretary has not made the investment in providing more counselors to reduce the counselor ratio, the Committee is concerned the severely disabled or high risk veterans are not being provided VR&E services in a timely fashion. Therefore, Section 304 would authorize the Secretary to prioritize VR&E services based on need. Under this Section, the Secretary would be required to consider the following factors when prioritizing VR&E services: disability rating, severity of the employment handicap, qualification for a program of independent living, income, and other factors as the Secretary deems appropriate.

The Committee recognizes that the Secretary already has the authority to prioritize the adjudication of certain compensation and pension claims and believes that claims for VR&E services should be treated no differently. The Committee would expect that if this authority were utilized, the Secretary would exercise caution to provide VR&E services to all eligible veterans in a timely fashion regardless of the prioritization.

*Section 305—Re-codification and improvement of election process for Post-9/11 Educational Assistance Program*

Section 5003(c) of the Post-9/11 G.I. Bill delineates the circumstances under which veterans and servicemembers with remaining eligibility for other education programs administered by VA can be converted to the Post-9/11 G.I. Bill. Section 5003(c) also mandates that any such conversion is irrevocable.

During a January 2013 site visit to the Atlanta VA Regional Processing Office, Committee staff asked VA staff what steps or processes could be changed to reduce processing times for Post-9/11 G.I. Bill claims. VA staff informed Committee staff that one step in the adjudication of G.I. Bill claims concerns veterans' irrevocable decision to convert their remaining months of eligibility for other G.I. Bill programs to the Post-9/11 G.I. Bill. They stated that many veterans make obvious errors in choosing a program to which they are not entitled or other errors which require manual processing of the claim. When this happens, VA then notifies the veteran, normally in writing, of the discrepancy and must wait for the veteran to contact VA and make the appropriate switch to their irrevocable election in order for their Post-9/11 G.I. Bill claim to be processed. VA staff believes these steps add unnecessary time and result in processing delays. This process was later confirmed again to Committee staff at a site visit to the St. Louis VA Regional Processing Office in April 2014.

Therefore, Section 305 would authorize VA to make an alternative election for the beneficiary for a different education benefit. VA would only be authorized to make such an election if it believes it is clearly in the best interest of the veteran. VA would be required to notify veterans of this alternative election within seven days and allow the veteran to change such election within 30 days. The Committee believes this is an important step to reduce processing times for this benefit while still balancing individual choice. This Section would also re-codify section 500(c) of the Post-9/11 G.I. Bill into section 3326 of title 38, U.S.C.

*Section 306—Clarification of assistance provided for certain flight training and other programs of education*

Section 102 of the Post-9/11 Veterans Educational Assistance Improvements Act of 2010<sup>8</sup> modified the Post-9/11 G.I. Bill, so that students attending a public institution of higher learning under the Post-9/11 G.I. Bill are eligible to receive the total net cost of in-state tuition and fees after the application of any waiver of tuition and fees and any scholarship, or other Federal, State, institutional, or employer-based aid or assistance. If a student is attending a non-public institution of higher learning, he/she is eligible for the lesser of the actual net cost for tuition and fees after the application of any waiver or scholarships or \$20,235. This cap is also subject to an annual Cost-of-Living-Adjustment increase. This was a change from the original Post-9/11 G.I. Bill that set the cap on tuition and fees at up to the highest in-state tuition rate in a state regardless whether the student was attending a public or non-public institution of higher learning.

At the Subcommittee on Economic Opportunity oversight hearing on November 11, 2014, entitled, “The Role of State Approving Agencies in Ensuring Quality Education Programs for Veterans,” the National Association of State Approving Agencies (NASAA) testified that they were concerned that changes made to the Post 9/11 G.I. Bill were encouraging some public institutions to contract with third party flight schools for expensive flight or helicopter training. Since these private flight schools are now under the umbrella of public schools, there was no limit to what they could charge for tuition and fees since the statute only requires that schools charge the in-state tuition rate.

As part of its legislative package presented to the Subcommittee at this hearing, NASAA recommended that the Subcommittee try to rein in this extravagant spending and place a cap on flight training at public institutions. This same sentiment was echoed at this hearing by VA and witnesses representing several leading veteran service organizations. In its written statement, VA expressed concern that many of these schools were using P.L. 111–377 to get around the current cap on vocational flight training, stating:

There has been a significant increase in flight training centers, specifically those that offer helicopter training, which have contracted with public IHLs to offer flight-related degrees. Sometimes these programs charge higher prices than those that would be charged if the student had chosen to attend the vocational flight school for the same training. This practice allows the flight schools to receive payments above the academic year tuition and fee cap imposed by statute, which is currently \$11,562.86. If those same classes are included in a public IHL degree program, VA can pay up to 100 percent of the in-state tuition and fee charges. This does not appear to be consistent with the intent of Congress as it relates to flight programs.

VA also included a legislative proposal in its FY 2016 budget submission to place the same cap on flight training as is currently in place for private, non-profit, and for-profit institutions. As a re-

<sup>8</sup>P.L. 111–377, 124 Stat. 4106.

sult of the proposal from VA, as well as concerns expressed by NASAA and veterans groups, Section 306 would place a cap on flight training for tuition and fee payments at public schools at \$20,235, the same cap that is in place for all private for-profit and non-profit institutions; this cap would also be subject to the cost of living adjustment. This Section would also prohibit students from taking flight training at a public institution as an elective course and would grandfather students currently in flight training programs for two years following enactment. The Committee believes this grandfather clause is important to cover current students who enrolled in these programs with the understanding that their tuition and fees would be completely paid for under the Post-9/11 G.I. Bill. The Section also subjects all programs that are contracted out by a public school to a third party to this same cap.

The Committee does not propose this cap lightly and understands that this would change the way that flight schools are paid for through the Post-9/11 G.I. Bill. The Committee, however, is concerned that the sharp growth in these programs and the uncontrollable increase in the cost of flight training following the enactment of P.L. 111-377 shows that there have been some unscrupulous actors who have found this loophole in the law and exploited it.

As confirmation of this exploration, data provided by VA to the Committee, between FY 2013 and FY 2014, the number of students taking flight training increased by only 171 students, or 9 percent, yet the total cost to taxpayers for this program grew by \$37 million, or 87 percent, during this same period. This data also showed that in one case in FY 2014, VA paid over \$534,000 in tuition and flight payments for one student that year. In a story in *The Los Angeles Times* on March 15, 2015 entitled, “U.S. Taxpayers Stuck with the Tab as Helicopter Flight Schools Exploit GI Bill Loophole,” the owner of one of these schools essentially admitted to exploiting the loophole by stating, “Because there was no cap, we started to one-up each other . . . You kind of end up with an arms race.”<sup>9</sup> The Committee believes that paying these unrestrained costs was never the intent of the Post-9/11 G.I. Bill; therefore Section 306 would close this loophole and responsibly end this practice to protect both taxpayers and veterans alike, and also to protect the G.I. Bill for future generations of veterans.

*Section 307—Consideration of certain time spent receiving medical care from the Secretary of Defense as active duty for purposes of eligibility for Post-9/11 educational assistance*

Guardsmen and Reservists who deploy on active duty are no less vulnerable to injury in combat than full time active duty servicemembers. Under current law, Guardsmen and Reservists wounded in combat receive orders under section 12301(h) of title 10, U.S.C., to serve time for medical and recovery purposes upon their return from deployment. However, federal law does not recognize such orders as creditable for Post-9/11 G.I. Bill education assistance, meaning that while these Guardsmen and Reservists are on orders under section 12301(h) of title 10, U.S.C., and receiving medical treatment, they do not accrue any time towards their Post-9/11 G.I. Bill eligibility. Under

<sup>9</sup><http://www.latimes.com/nation/la-me-adv-gibill-20150315-story.html#page=1>.

this scenario, a Guardsman or Reservist who serves on active duty but was never injured could accrue more Post-9/11 G.I. Bill benefits than one who is still active duty but recovering from injuries sustained in combat.

Section 307 would end this unequal treatment and ensure that Guardsmen and Reservists are able to accrue eligibility for Post-9/11 G.I. Bill benefits while on orders under section 12301(h) of title 10, U.S.C. The Committee believes this policy would fairly reflect the time that Guardsmen and Reservists spend serving our nation for the purposes of their education assistance benefits.

*Section 308—Work study allowance*

VA's work-study program allows certain veterans and dependents enrolled in school through a VA educational program to perform a certain number of hours of work in exchange for compensation through VA's work study program. Eligible individuals are able to work for up to 25 hours times the number of weeks contained in an enrollment period. Participants receive the greater of the State's minimum wage rate or the national minimum wage rate under section 6(a) of the Fair Labor Standards Act of 1938 (section 206(a) of title 29, U.S.C.). Eligible work-study activities were expanded to the following positions: (1) VA outreach services programs or outreach services to servicemembers and veterans furnished by employees of a SAA; (2) Hospital and domiciliary care and medical treatment at VA facilities, and care to veterans in a state home; and (3) Activities relating to the administration of a national cemetery or a state veterans' cemetery.

The legal authority for these expanded work study programs expired on June 1, 2013, however the Committee and veterans service organizations believe that the reauthorization of these work study options would be beneficial to veterans or their dependents as they pursue a college degree. At a June 2, 2015, Subcommittee on Economic Opportunity legislative hearing, Mr. Steve Gonzalez with The American Legion testified on this language, stating:

This program provides a valuable benefit to student-veterans and that benefit is often multiplied many times over when, for example, veterans are allowed to perform outreach services to service members and veterans furnished under the supervision of a State approving agency employee. This is just one instance of the important work that is accomplished by these student-veterans.

This program gives veterans and dependents an alternative means to supplement their income as they attend an institution of higher learning. In recent years, the average student has been leaving college with an average debt of \$24,000 to cover all college expenses, but this program would help veterans mitigate this debt while also getting work experience as they attend school. Section 308, therefore, would amend section 3485(a)(4) of title 38, U.S.C., by striking the expiration date of June 30, 2013, and inserting the expiration date of June 30, 2021.

*Section 309—Vocational Rehabilitation and Education Action Plan*

The VR&E program provides job training and related services for veterans with service-connected disabilities who experience barriers

to employment. A 2014 GAO report, entitled “VA Vocational Rehabilitation & Employment: Further Performance and Workload Management Improvements are Needed,” included several recommendations to improve the program and assist more veterans in a timely manner. The report found that caseloads were too high for each VR&E counselor, something the Committee has been concerned about for several years. The President’s FY 2016 budget once again flat lined the amount of funding for VR&E counselors, despite the increasing numbers of veterans entering the program. The report also found that approximately only half of the almost 17,000 veterans who entered the VR&E program in FY 2003 and received employment-related services were placed in suitable jobs and that the current program does not adequately address the unique challenges of service-connected disabled veterans suffering from Traumatic Brain Injury (TBI) or PTSD.

The Committee believes that the VR&E program is important in the process of getting disabled veterans into meaningful and sustainable jobs following active duty, but VR&E staff cannot meet the growing demand for services in a timely manner. The Committee believes that a thorough examination of the program and ways to improve the program is important to the success of the disabled veterans the program serves. At a June 2, 2015, Subcommittee on Economic Opportunity legislative hearing, Mr. Christopher Neiweem with the IAVA testified on this language, stating:

Without a fundamental understanding of the conditions a veteran is facing, a counselor will not be positioned to identify how to help the veteran secure a job and begin a rewarding career. This legislation would improve a program that has been too often regarded as mediocre due to organizational factors as it relates to the veteran-counselor relationship.

The Committee and veteran groups believe that the VR&E program does need to be improved to properly serve disabled veterans and rehabilitate them in a more impactful and timely manner. Section 309, therefore, would require VA, within 270 days of enactment, to develop and publish an action plan for improving VR&E services. Such an action plan would include each of the following: (1) a comprehensive analysis and recommendations to remedy workload management challenges at the regional office level, including steps to reduce counselor caseloads, particularly for counselors assisting veterans with TBI and PTSD, and counselors with educational and vocational counseling workloads; (2) an analysis of why veterans with service-connected disabilities tend to opt to use Post-9/11 G.I. Bill benefits rather than enroll in chapter 31 vocational rehabilitation programs, including an analysis of barriers to timely enrollment in chapter 31 programs and barriers to a veteran enrolling in the program of the veteran’s choice; (3) recommendations and an implementation plan to encourage more Post-9/11 veterans with service-connected disabilities to participate in chapter 31 vocational rehabilitation programs; and (4) a national staff training program for vocational rehabilitation counselors.

The Committee believes that beyond VA creating an action plan to improve the program, additional VR&E counselors do need to be hired and that there needs to be a priority of services given to the

most disabled veterans. A thorough examination of the program, however, is also necessary and an action plan created by VA to improve the program is also needed.

*Section 310—Reduction in redundancy and inefficiencies in vocational rehabilitation claims processing*

As VA continues to reduce its reliance on paper based systems, one of the last benefit programs to go paperless has been the VR&E program. VR&E counselors provide personalized vocational rehabilitation plans and most of their notes, tracking of payments, and outcome measures remain in the veterans paper based file or non-centralized IT systems. While some information is provided to VA's Central Office, most of the work and information on the veteran stays in the paper file and antiquated IT systems.

The Committee believes that VA must move all of its payments to a corporate database to better track success and payments to veterans and to impose overall transparency of VA's financial status. Section 310, therefore, would state that in an effort to reduce redundancies and inefficiencies that all payments through VA's VR&E program use one corporate database and ensure that any IT system that helps track such payments support a more accurate accounting of outcomes for veterans. The Section would authorize \$10,000,000 in FY 2016 to accomplish this goal, and would require VA to provide a report to Congress within 180 days following enactment on VA's efforts to better align payments through VR&E.

TITLE IV—ADMINISTRATION OF EDUCATIONAL ASSISTANCE

*Section 401—Centralized reporting of veteran enrollment by certain groups, districts, and consortiums of educational institutions*

Chapter 36 of title 38, U.S.C., describes the process by which VA approves courses of instruction at institutions of higher learning (IHLs), and how schools certify the enrollment of veterans, which is necessary prior to any use of VA educational assistance benefits for veterans, dependents, and survivors. Schools are currently required to submit enrollments separately, even if an individual school is one of a number of schools sharing a common registration system. Requiring each school to submit enrollments separately, however, is highly inefficient for both the schools and VA, and the Committee believes that consolidating such processes among schools with common registration systems would lead to a more cost-efficient process.

To streamline the process and reduce those inefficiencies, Section 401 would amend section 3684(a) of title 38, U.S.C., to authorize IHLs that belong to a consortium of institutions governed by a common body with common administrative practices to submit enrollments in a consolidated fashion.

*Section 402—Provision of information regarding veteran entitlement to educational assistance*

One of the most common concerns that the Committee receives from School Certifying Officials (SCOs) at G.I. Bill eligible schools, is that VA's current IT system does not allow them to view a student veteran's remaining G.I. Bill entitlement. This flaw in VA's system makes it difficult for a SCO to quickly and properly advise

a student veteran on which educational programs they are eligible to receive. At a Subcommittee on Economic Opportunity legislative hearing on March 24, 2015, the National Association of Veteran Program Administrators (NAVPA) expressed support for this provision in submitted testimony by stating:

With today’s veterans often changing between schools or needing to enroll in programs close to enrollment deadlines the ability to see what GI Bill entitlements a student had remaining would be beneficial to the student and the College/University that they are wanting to attend.

Section 402 would address this issue and would require that VA provide access to IT systems that would allow SCOs to view a student veteran’s eligibility for educational assistance under title 38, U.S.C.

*Section 403—Role of state approving agencies*

The Post-9/11 Veterans Educational Assistance Improvements Act of 2010 (P.L. 111–377, 124 Stat. 4106) made several changes to what had been the traditional role of the SAAs in approving courses and schools for G.I. Bill benefits. Specifically, section 203 amended section 3672 of title 38, U.S.C., and made several types of educational institutions “deemed approved” for G.I. Bill benefits. VA currently makes the determination if a school meets this standard. This change was meant as a way to reduce the number of site visits the SAAs had to conduct at IHLs, i.e. most well established public institutions, which normally provide quality courses to students. While the Committee believes there is merit to limiting unnecessary visits, it is important for the SAAs, along with the VA to make the determination if a school meets the basic criteria for being “deemed approved” for G.I. Bill benefits.

Section 403 would provide SAAs with this approval authority and would also amend section 3675 of title 38, U.S.C., to make the same approval authority apply to accredited non-degree programs at public and private IHLs that are not currently covered by section 3672 of title 38, U.S.C., while maintaining all previous approval criteria for private, for-profit schools. The Committee believes these changes are necessary, because both the SAAs and VA expressed concern in testimony at the Subcommittee on Economic Opportunity’s legislative hearing on March 24, 2015, that too many schools were creating certifications and transition courses that may not meet quality standards but are “deemed approved” because they have been created by a school that has been “deemed approved.”

*Section 404—Criteria used to approve courses*

Section 3676(c)(14) of title 38, U.S.C., authorizes the SAAs to set their own “reasonable criteria” for approving non-accredited courses. Traditionally, these types of criteria have been minimal in nature and have been applied equally to all schools. In 2014, one State passed a law that set up new standards for schools to be eligible for G.I. Bill benefits based on graduation rates and cohort student loan default rates. The new law only applied these standards to private, for-profit institutions and specifically exempted community colleges and public IHLs from these criteria.

While the Committee supports a State's right to set up its own "reasonable criteria," it remains concerned that such criteria must remain equitable for all types of schools. Therefore, Section 404 would require that any "reasonable criteria" instituted by the states, apply equitably to all schools in the State and give VA the authority to disapprove any "reasonable criteria." This standard would apply to any new criteria for accredited and non-accredited courses that were created by the states after January 1, 2013. The Committee included this date, so that VA and the SAAs did not have to review all state-instituted "reasonable criteria" that has been created dating as far back as the origination of section 3676.

*Section 405—Compliance surveys*

Section 3693 of title 38, U.S.C., requires that VA, or the SAAs acting on VA's behalf, conduct annual compliance surveys at any institution that offers any type of non-degree program as well as every facility that has at least 300 G.I. Bill recipients. The compliance surveys are meant as an audit of these institutions' paperwork, tuition, and fees payments; however, while helpful for schools, these audits do not examine the quality of education being provided by the school. Representatives for VA made the following statement as part of their written submission on H.R. 476 at the March 25th, 2015 legislative hearing before the Subcommittee on Economic Opportunity:

Currently, there are approximately 16,000 approved domestic and international IHLs and non-college degree (NCD) institutions. Of the 16,000 institutions, there were 11,260 active institutions in calendar year 2013. During FY 2013 and FY 2014, VA and SAAs completed well over 10,000 surveys, with just over 5,000 surveys completed in FY 2014. VA anticipates completing a similar number of reviews in 2015.

Based on these numbers and their own experiences, VA and the SAAs have supported making adjustments to the legislative requirements for compliance surveys. As such, Section 405 is based on the legislative proposal submitted by the SAAs and would require that compliance surveys be conducted at least once every two years at G.I. Bill eligible facilities with at least 20 G.I. Bill recipients. This Section would also require VA and the SAAs to work together each year to identify which schools will receive a compliance survey and the parameters for such a visit. The Committee agrees with VA and the SAAs that the compliance surveys are an important tool to ensure that G.I. Bill monies have been spent appropriately, but that the current process needs to be tweaked to allow VA and the SAAs to focus on approvals, training of school certifying officials, and providing technical assistance to schools.

*Section 406—Survey of individuals using their entitlement to educational assistance under the educational assistance programs administered by the Secretary of Veterans Affairs*

A major issue that continues to impact veterans' education policy is the lack of information on outcomes of G.I. Bill participants. This goes beyond performance and outcomes measures, but includes the need for basic demographic information on students, how students

choose their school, what improvements students believe need to be made to the G.I. Bill program, and other information. Section 406 would address this problem and would require VA to contract with a third party entity to conduct a survey on all G.I. Bill participants. The content of the survey would be required to be submitted to Congress before the third party entity begins the survey process. Students would be asked about basic demographic information, their opinion of the Transition Assistance Program (TAP), their view of the process for administering their educational benefit, their employment status, and other information. The Committee believes this survey would allow VA and Congress to have a better understanding of a veteran's experience and would better inform future oversight and legislative proposals.

*Section 407—Improvement of information technology of the Veterans Benefit Administration of the Department of Veterans Affairs*

When VA began implementing the Post-9/11 G.I. Bill in 2009, there were considerable processing delays due to an outdated IT system that required VA to process many claims manually. As VA found short-term workarounds, Congress approved funding for VA to automate processing through a system called the “Long Term Solution” (LTS). The goal of LTS was for most, if not all, claims to be completed electronically without any human intervention.

VA took years and expended millions of dollars to complete six different releases of the LTS. At a March 24, 2015, Subcommittee on Economic Opportunity legislative hearing, VA stated that LTS activated the capability for end-to-end automation of supplemental claims in September 2012. VA also stated that currently over 80 percent of supplemental claims are now completed without any human intervention; supplemental claims are for current students who are simply re-certifying that they are going to continue with their training or education program. Furthermore, VA stated in their testimony the following:

Currently, LTS is in a sustainment phase with only minimal increases in functionality. Further development would allow LTS to automate certificates of eligibility and provide very fast service (possibly one day) for some Veterans who apply for the Post-9/11 GI Bill, as opposed to the current 16-day average processing time. In addition, further development for supplemental claims would allow LTS to produce increased efficiencies in processing through additional automation, while ensuring consistent and timely service to Veterans.

Although the Committee concedes that VA has made progress processing supplemental claims, LTS is now in sustainment mode, and VA has told the Committee that there are no plans to automate the processing of original or first time claims. The President's budget for FY 2016 did not include any new funding for LTS or additional staff to process original claims, and predicted that it will take, on average, 28 days to complete the processing of an original claim; this is the same amount of time it took VA to process original claims in FY 2015. The Committee is pleased that supplemental claims are being adjudicated quickly, but remains concerned that there is no plan to also fully automate original claims.

This is a problem, as timely housing allowance checks and tuition payments to schools are critically important for Post-9/11 G.I. Bill participants.

Section 407, therefore, would require the Secretary, to the maximum extent possible, to complete all Post-9/11 G.I. Bill benefit claims electronically using rules based processing with little, to no, human intervention. Under this Section, VA would be required to provide to the Committee a report on its plan to implement new IT systems within 180 days of enactment. The Section would also authorize \$30 million to fund these system improvements. At the legislative hearing on this bill, VA agreed with the Committee that this Section is necessary to improve accuracy and processing times for Post-9/11 G.I. Bill claims.

*Section 408—Technical amendment relating to in-state tuition rate for individuals to whom entitlement is transferred under All Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance*

Section 702 of the Choice Act<sup>10</sup> required that, for public institutions of higher learning to remain eligible for VA education benefits under the Montgomery G.I. Bill and the Post-9/11 G.I. Bill, public institutions had to provide in-state tuition to eligible veterans and dependents of veterans who had transferred their benefits to their spouse or child prior to leaving active duty. VA's interpretation of section 702, however, did not treat dependents of current active duty servicemembers as eligible for the in-state tuition rate. The Committee believes it was never Congress' intent to exclude these dependents, as most are still connected to the servicemember and still subject to the transient nature of military service, often making it difficult to meet strict in-state tuition requirements in some states.

Section 408 would address this problem by making a technical amendment to ensure eligible dependents of active duty servicemembers are included in the in-state tuition provision of the Choice Act. States and schools would have until July 1, 2016, to comply with this change.

TITLE V—OTHER MATTERS

*Section 501—Amount of loan guaranteed under Home Loan Program of Department of Veterans Affairs*

Under current law, VA's maximum loan guaranty amount is calculated as a percentage of the Freddie Mac conforming loan limitation determined by the Federal Home Loan Mortgage Corporation Act<sup>11</sup> which varies by location and zip code. Since in most cases VA's guaranty must be at least 25 percent of the loan, this means that VA's maximum loan guaranty amount is effectively capped at the Freddie Mac limit. For many veterans who are seeking to purchase a home in high cost areas, the Freddie Mac limit is too low for VA's zero-down loan program. This either forces the veteran not to use the VA program, or pay the loan principal down.

Section 501, therefore, would amend section 3703 of title 38, U.S.C., to eliminate the maximum loan guaranty amount under the

<sup>10</sup> P.L. 113-146, 128 Stat. 1754.

<sup>11</sup> 12 U.S.C. 1454(a)(2)

VA home loan program by eliminating the Freddie Mac cap for VA home loans and would make the maximum guaranty amount 25 percent of the loan amount. The Committee is confident VA's current strict underwriting standards and low foreclosure rates will ensure that veterans still have the required good credit and income to qualify for the loan, and that this change will not result in a significant increased amount of foreclosures.

*Section 502—Longitudinal study of job counseling, training, and placement services for veterans*

Outcomes of services provided by VETS are some of the most difficult sets of data the Committee tracks. Despite the common measures used to track all employment services provided to all Americans by the DoL, there is little to no tracking relating the job training and employment placement services provided by DVOPS and LVERs and the veteran receiving these services becoming employed. Since VETS has no plans to change outcome measures to better identify the services they provide, Section 502 would authorize the new Under Secretary for VEOTA to enter into a contract with a non-governmental entity to conduct a five-year longitudinal study of veteran employment programs under chapter 41 of title 38, U.S.C. The study would compare the employment outcomes of veterans who have received "intensive services" under chapter 41, veterans who have not received "intensive services" but did receive other services authorized by chapter 41, and veterans who did not seek or receive services under this chapter.

The study would be required to include the following information on participants: (1) the average number of months the participant spent on active duty; (2) disability ratings of participants; (3) unemployment benefits received by participants; (4) number of months the participants were employed in the year covered by the report; (5) the average annual starting and ending salary of participants who were employed during the year covered by the report; (6) the average income of participants; (7) the total household income of participants; (8) the percentage of participants that own their own residences; (9) in the case of participants who received services under chapter 41, if the participant believes the services helped them become employed; (10) in the case of participants that believe the services did help them become employed, if they retained their position of employment for one year or longer and if they believe the services helped them secure a higher wage; (11) the conditions under which the participants were discharged or released from active duty; (12) whether the participants have used any veteran educational assistance provided by VA; (13) if the participants participated in a rehabilitation program under chapter 31 of title 38, U.S.C.; (14) demographic information on the participants; and (15) any other information the Secretary deems appropriate.

The Committee believes this study will be an invaluable depiction of the benefits provided by DVOPS and LVERs and will provide a roadmap of ways to improve training and job placement services to veterans.

*Section 503—Limitations on subcontracts under contracts with small business concerns owned and controlled by veterans*

Committee staff discussed with VA Office of Inspector General (OIG) representatives what is needed to better prosecute businesses that attempt to fraudulently pass themselves off as veteran-owned small businesses in order to take advantage of preferential set-asides as authorized by section 8127 of title 38, U.S.C. Whereas the OIG has had success in prosecuting these bad actors, it has noted to the Committee that it is often hard to make a case for knowing and willful falsification or concealment of material facts, which is necessary to prove certain title 18, U.S.C., crimes. As such, Section 503 would ensure that VA contractors would be required to complete a certification that would notify the business that they are subject to prosecution for violations of section 8127 of title 38, U.S.C.

Another serious problem that interferes with veteran-owned small businesses appropriately taking advantage of set-asides is when businesses that are not veteran-owned, or that are not small businesses, attempt to use a veteran-owned small business as a pass-through to fraudulently receive those set asides. Section 503 would also require relevant provisions of the Small Business Act to apply, particularly those that prohibit pass-throughs and to save set-asides for those businesses that are actually qualified.

These provisions are intended to improve the availability of set-asides for veteran-owned small businesses by holding accountable those who attempt to defraud those businesses. Further, to improve oversight, VA's Chief Acquisition Officer would be required by Section 503 to report violations to the OIG. Subsequently, the OIG would be required to provide related information the House and Senate Committees on Veterans' Affairs in annual reports.

*Section 504—Procedures for provision of certain information to state veterans agencies to facilitate the furnishing of assistance and benefits to veterans*

In the 113th Congress the Committee held a hearing entitled, "Honoring the Commitment: Overcoming the Barriers to Quality Mental Health Care for Veterans." One of the goals of that hearing was to address VA's progress in effectively partnering with non-VA providers to address service gaps and create a more patient-centric network of care focused on wellness-based outcomes. During that hearing, Linda Spoonster Schwartz, the then-Commissioner of Veterans' Affairs for the State of Connecticut, testified that:

The task of serving veterans is a shared responsibility with States and the Federal Government. . . . Too often VA on the National and State level does not coordinate or even communicate with the State Departments and agencies tasked with caring and providing services for our veterans. State-based programs are augmented by thousands of private-sector, community volunteers and faith based initiatives that attempt to help disabled and injured service members and their families meet housing, transportation, childcare, employment, mental health and short-term financial aid. We are not lacking in people wanting to help, we are lacking [sic] in a coordinated effort, account-

ability and creative approaches to solving problems in the local communities. Just as all politics are local, the care and welfare of each military member, veterans and their families is not only a priority for State Governments, there are local programs, services and resources that have been developed to meet the needs of veterans where they live and work. State Legislators are as vitally engaged in the needs of veterans and also creating new programs and services as are Members of Congress. A true partnership of Federal and State resources can only improve the opportunities for our veterans, especially the troops returning today, and their families.

The Committee concurs with Ms. Spoonster Schwartz's sentiments and believes that VA must take steps to partner with state veteran agencies to improve the provision of care and support to veterans and their families.

Section 504 would direct VA to develop procedures to share information that includes military service and separation data, personal email addresses and telephone numbers, and mailing addresses of veterans with state veterans agencies in electronic format as a means of facilitating the furnishing of assistance and benefits to such veterans, while allowing veterans to elect to prevent their information from being shared.

#### HEARINGS

On March 19, 2015, the Subcommittee on Oversight and Investigations conducted a legislative hearing on various bills introduced during the 114th Congress, including H.R. 1015, which is included in H.R. 3016, as amended. The following witnesses testified:

The Honorable Jeff Miller, U.S. House of Representatives, 1st District, Florida; Ms. Meghan Flanz, Director, Office of Accountability Review, Department of Veterans Affairs; Dr. Michael Icardi, National Director, Pathology and Laboratory Medicine Services, Veterans Health Administration; Mr. Stanley Lowe, Deputy Assistant Secretary for Information Security and Chief Information Security Officer, Department of Veteran Affairs; Mr. Dennis Milsten, CCM, Associate Executive Director, Office of Operations, Office of Construction and Facilities Management, Department of Veterans Affairs; Ms. Diane Zumatto, National Legislative Director, AMVETS; Mr. Frank Wilton, Chief Executive Officer, American Association of Tissue Banks; and Mr. Daimon Geopfert, National Leader, Security and Privacy Consulting, McGladrey, LLP.

A statement for the record was submitted by the following:  
The American Legion.

On March 24, 2015, the Subcommittee on Economic Opportunity conducted a legislative hearing on various bills introduced during the 114th Congress, including H.R. 475; H.R. 476; H.R. 643; H.R. 1141; and H.R. 1187, all of which are included in H.R. 3016, as amended. The following witnesses testified:

The Honorable Jeff Miller, U.S. House of Representatives, 1st District, Florida; The Honorable Patrick Murphy, U.S. House of Representatives, 18th District, Florida; Mr. Aleks Morosky, Deputy Director, National Legislative Service, Vet-

erans of Foreign Wars of the United States; Mr. Christopher Neiweem, Legislative Associate, Iraq and Afghanistan Veterans of America; Mr. Steve Gonzalez, Assistant Director, National Veteran Employment & Education Division, The American Legion; Dr. Joseph W. Wescott, President, National Association of State Approving Agencies; Ms. Teresa W. Gerton, Deputy Assistant Secretary, Veterans' Employment and Training Service, U.S. Department of Labor; and MG Robert M. Worley II USAF (Ret.), Director, Education Service, Veterans Benefit Administration, U.S. Department of Veterans Affairs who was accompanied by Mr. Tom Leney, Executive Director, Small and Veteran Business Programs, Ms. Kimberly McLeod, Deputy Assistant General Counsel, and Mr. John Brizzi, Deputy Assistant General Counsel; and

Statements for the Record were submitted by the following: U.S. Department of Defense; School Advocates for Veterans' Education and Success; Paralyzed Veterans of America; Easter Seals, Inc.; and National Association of Veterans' Program Administrators.

On June 2, 2015, the Subcommittee on Economic Opportunity conducted a legislative hearing on various bills introduced during the 114th Congress, including H.R. 356; H.R. 832; H.R. 2275; H.R. 2344; H.R. 2361; and a draft bill entitled "To amend title 38, United States Code, to make certain modifications and improvements in the transfer of unused educational assistance benefits under the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs, and for other purposes," all of which are included in H.R. 3016, as amended. The following witnesses testified:

The Honorable Jeff Miller, U.S. House of Representatives, 1st District of Florida; The Honorable Bill Flores, U.S. House of Representatives, 17th District of Texas; The Honorable Paul Cook, U.S. House of Representatives, 8th District of California; The Honorable Sean Patrick Maloney, U.S. House of Representatives, 18th District of New York; Mr. Paul R. Varela, Assistant National Legislative Director, Disabled American Veterans; Mr. Brendon Gehrke, Senior Legislative Associate of the National Legislative Service, Veterans of Foreign Wars of the United States; Mr. Steve Gonzalez, Assistant Director of the Veterans Employment and Education Division, The American Legion; Mr. David Borer, General Counsel, American Federation of Government Employees, AFL-CIO; Mr. Christopher Neiweem, Legislative Associate, Iraq and Afghanistan Veterans of America; Mr. Rick Weidman, Executive Director of Government Affairs, Vietnam Veterans of America; Mr. Curtis L. Coy, Deputy Under Secretary for Economic Opportunity of the Veterans Benefits Administration, U.S. Department of Veterans Affairs who was accompanied by Ms. Cathy Mitrano, Deputy Assistant Secretary for the Office of Resource Management of the Human Resources and Administration, U.S. Department of Veterans Affairs; Ms. Teresa W. Gerton, Acting Assistant Secretary of the Veterans' Employment and Training Service, U.S. Department of Labor; and Dr. Susan S. Kelly, Director of the Transition to Veterans Program Office at the Of-

office of the Under Secretary of Defense for Personnel and Readiness, U.S. Department of Defense.

A statement for the record was submitted by the following: Paralyzed Veterans of America.

On July 14, 2015, the Subcommittee on Health conducted a legislative hearing on various bills introduced in the 114th Congress, including H.R. 272; H.R. 359; H.R. 423; H.R. 1862; and H.R. 3016, all of which are included in H.R. 3016, as amended. The following witnesses testified:

Honorable Tim Walberg, U.S. House of Representatives, 7th Congressional District; Michigan; Honorable Sean Duffy, U.S. House of Representatives, 7th Congressional District, Wisconsin; Honorable Steve Stivers, U.S. House of Representatives, 15th Congressional District, Ohio; Honorable Kyrsten Sinema, U.S. House of Representatives, 9th Congressional District, Arizona; Honorable Doug Collins, U.S. House of Representatives, 9th Congressional District, Georgia; Honorable Mike Coffman, U.S. House of Representatives, 6th Congressional District, Colorado; Honorable Jeff Denham, U.S. House of Representatives, 10th Congressional District, California; Honorable Charles Boustany, U.S. House of Representatives, 3rd Congressional District, Louisiana; Honorable Brad Wenstrup, U.S. House of Representatives, 2nd Congressional District, Ohio; Ian de Planque, Legislative Director American Legion; Adrian Atizado, Assistant National Legislative Director, Disabled American Veterans; Carlos Fuentes, Senior Legislative Associate, National Legislative Service Veterans of Foreign Wars of the United States; and, Madhulika Agarwal MD, MPH, Deputy Under Secretary for Health for Policy and Services, Veterans Health Administration U.S. Department of Veterans Affairs, who was accompanied by Janet P. Murphy MBA, Acting Deputy Under Secretary for Health for Operations and Management, Veterans Health Administration U.S. Department of Veterans Affairs and Jessica Tanner, General Attorney Office of General Counsel, U.S. Department of Veterans Affairs.

Statements for the Record were submitted by: The American Academy of Audiology and the American Speech-Language Association; the Children of Vietnam Veterans Health Alliance, the International Hearing Society; Iraq and Afghanistan Veterans of America; the National Medical Association; Paralyzed Veterans of America; VetsFirst, a program of the United Spinal Association; Vietnam Veterans of America; Warrior Canine Connection; the American Academy of Ophthalmology; and, the American Medical Association.

#### SUBCOMMITTEE CONSIDERATION

On April 16, 2015, the Subcommittee on Economic Opportunity met in open markup session, a quorum being present, and favorably forwarded H.R. 475, as amended, and H.R. 476, as amended, H.R. 643, H.R. 1141, and H.R. 1187 to the full Committee. During consideration of the bills, the following amendments were considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Mr. Wenstrup of Ohio, to remove a provision to extend the deadline

for the in-state tuition of the Choice Act, and make technical and conforming changes that were suggested by VA during the March 24, 2015, Subcommittee on Economic Opportunity legislative hearing; and

An amendment in the nature of a substitute offered by Mr. Wenstrup of Ohio, which included a one-year grandfather clause for the provision that places a monetary cap on flight training through the Post-9/11 G.I. Bill, and minor changes that were suggested by VA during the March 24, 2015 Subcommittee on Economic Opportunity legislative hearing.

On June 25, 2015, the Subcommittee on Economic Opportunity met in open markup session, a quorum being present, and a motion to favorably forward H.R. 356, H.R. 832, H.R. 2275, H.R. 2344, and H.R. 2361 to the full Committee was adopted by voice vote.

On July 22, 2015, the Subcommittee on Health met in open markup session, a quorum being present, and a motion to favorably forward H.R. 272, H.R. 359, H.R. 423, H.R. 1862, and H.R. 3016 to the full Committee was adopted by voice vote.

#### COMMITTEE CONSIDERATION

On September 17, 2015, the full Committee met in open markup session, a quorum being present, and ordered H.R. 3016, as amended, reported favorably to the House of Representatives, by voice vote. During consideration of the bill, the following amendments were considered:

An amendment in the nature of a substitute offered by Rep. Brad Wenstrup of Ohio, which combined the text of H.R. 272; H.R. 356; H.R. 423; H.R. 456; H.R. 475, as amended; H.R. 476, as amended; H.R. 643; H.R. 832; H.R. 1015, as amended; H.R. 1141, as amended; and H.R. 1187, H.R. 1862, H.R. 2275, H.R. 2344, as amended, H.R. 2531, H.R. 3016, and changes to the Post-9/11 G.I. Bill was agreed to by voice vote.

An amendment to the amendment in the nature of substitute offered by Rep. Phil Roe of Tennessee, which expanded the amount of time VA would treat or pay for newborn care from two weeks to six weeks was agreed to by voice vote.

An amendment to the amendment in the nature of substitute offered by Mr. Takano of California, which would have eliminated section 301 of the amendment in the nature of substitute on eligibility to transfer benefits to dependents under the Post-9/11 G.I. Bill was not agreed to and failed by voice vote.

An amendment to the amendment in the nature of a substitute offered by Ms. Titus of Nevada, which would have eliminated section 203 of the amendment in the nature of a substitute which transfers functions and programs of VETS to VA and would require a series of studies on the effectiveness of VETS' programs was not agreed to and failed by voice vote.

An amendment to the amendment in the nature of substitute by Mr. Takano of California would expand the membership of VA's advisory committee on minority veterans to include veterans who are lesbian, gay or bisexual and veterans who are transgender was not agreed to. The amendment failed by a recorded vote of 12 nays and 9 yeas, 1 present, with 2 absent.

A motion by Ranking Member Corrine Brown of Florida to report H.R. 3016, as amended, favorably to the House of Representatives was adopted by voice vote.

#### COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the results of the record vote that occurred during the Committee consideration of H.R. 3016 is as follows:

An amendment to the amendment in the nature of substitute by Mr. Takano of California would expand the membership of VA's advisory committee on minority veterans to include veterans who are lesbian, gay or bisexual and veterans who are transgender who are not agreed to. The amendment failed by a recorded vote of 12 nays and 9 yeas, 1 present, with 2 absent.

#### COMMITTEE ON VETERANS' AFFAIRS

#### RECORDED VOTE 2

H.R. 3016

Date: September 17, 2015

Amendment offered by Mr. Takano to amendment in the nature of a substitute to H.R. 3016

Failed: 9 yeas and 12 nays.

| Representative             | Yea | Nay | Present | Not Voting | Representative                  | Yea      | Nay       | Present  | Not Voting |
|----------------------------|-----|-----|---------|------------|---------------------------------|----------|-----------|----------|------------|
| Mr. Miller, Chairman ..... |     | X   |         |            | Ms. Brown, Ranking Member ..... |          |           | X        |            |
| Mr. Lamborn .....          |     |     |         | X          | Mr. Takano .....                | X        |           |          |            |
| Mr. Bilirakis .....        |     |     |         | X          | Ms. Brownley .....              | X        |           |          |            |
| Mr. Roe .....              |     | X   |         |            | Ms. Titus .....                 | X        |           |          |            |
| Mr. Benishek .....         |     | X   |         |            | Mr. Ruiz .....                  | X        |           |          |            |
| Mr. Huelskamp .....        |     | X   |         |            | Ms. Kuster .....                | X        |           |          |            |
| Mr. Coffman .....          |     | X   |         |            | Mr. O'Rourke .....              | X        |           |          |            |
| Mr. Wenstrup .....         |     | X   |         |            | Miss Rice .....                 | X        |           |          |            |
| Mrs. Walorski .....        |     | X   |         |            | Mr. Walz .....                  | X        |           |          |            |
| Mr. Abraham .....          |     | X   |         |            | Mr. McNerney .....              | X        |           |          |            |
| Mr. Zeldin .....           |     | X   |         |            |                                 |          |           |          |            |
| Mr. Costello .....         |     | X   |         |            |                                 |          |           |          |            |
| Mrs. Radewagen .....       |     | X   |         |            |                                 |          |           |          |            |
| Mr. Bost .....             |     | X   |         |            |                                 |          |           |          |            |
|                            |     |     |         |            | <b>Vote Total:</b>              | <b>9</b> | <b>12</b> | <b>1</b> | <b>2</b>   |

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are that the Secretary will use these provisions to improve education and employment programs as well as the health care services provided to veterans and dependents.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3016, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 3016, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 3016, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 19, 2015.*

Hon. JEFF MILLER,  
*Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed estimate for H.R. 3016, the Veterans Employment, Education, and Healthcare Improvement Act.

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

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 3016—Veterans Employment, Education, and Healthcare Improvement Act*

Summary: H.R. 3016 would modify certain mandatory veterans' programs, including those that provide educational benefits and mortgage loan guarantees. On net, CBO estimates that enacting H.R. 3016 would decrease direct spending by \$815 million over the 2016–2025 period.

In addition, H.R. 3016 would expand the types of medical care provided by the Department of Veterans Affairs (VA); reorganize the administration of several job training, readjustment benefits, and other benefit programs; transfer certain employment training and placement programs from the Department of Labor (DOL) to VA; and modify the processing of benefit claims. In total, CBO estimates that implementing the bill would cost \$234 million over the 2016–2020 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.

CBO estimates that enacting H.R. 3016 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 3016 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. State agencies that serve veterans would benefit from contact and service information about veterans provided electronically by VA.

Estimated cost to the Federal Government: The estimated budgetary effects of H.R. 3016 are shown in Table 1. The costs of this legislation fall within budget function 700 (veterans benefits and services).

TABLE 1.—BUDGETARY EFFECTS OF H.R. 3016, THE VETERANS EMPLOYMENT, EDUCATION, AND HEALTH CARE IMPROVEMENT ACT

|   | By fiscal year, in millions of dollars— |      |      |      |      |           |
|---|---|------|------|------|------|-----------|
|   | 2016                                    | 2017 | 2018 | 2019 | 2020 | 2016–2020 |
| CHANGES IN DIRECT SPENDING <sup>a</sup> |   |      |      |      |      |           |
| Estimated Budget Authority .....        | –7                                      | –20  | –44  | –63  | –80  | –214      |
| Estimated Outlays .....                 | –7                                      | –20  | –44  | –63  | –80  | –214      |
| SPENDING SUBJECT TO APPROPRIATION       |   |      |      |      |      |           |
| Estimated Authorization Level .....     | 76                                      | 54   | 33   | 36   | 38   | 237       |
| Estimated Outlays .....                 | 56                                      | 64   | 38   | 37   | 39   | 234       |

<sup>a</sup>Enacting H.R. 3016 would have effects beyond 2020. CBO estimates that under H.R. 3016 direct spending would decrease by \$815 million over the 2016–2025 period.

Basis of estimate: For this estimate, CBO assumes that H.R. 3016 will be enacted early in fiscal year 2016, the estimated amounts will be appropriated each year, and outlays will follow historical spending patterns for affected programs.

*Direct spending*

CBO estimates that enacting H.R. 3016 would decrease net direct spending by \$7 million in 2016 and \$815 million over the

2016–2025 period (see Table 2). Most of that change arises from provisions that would modify the education benefits provided by VA. Changes to VA’s authority to guarantee mortgages would increase direct spending by a smaller amount.

Changes to Education Benefits. H.R. 3016 would make several changes to education benefits provided under the Post-9/11 GI Bill. On net, those changes would decrease direct spending by \$882 million over the 2016–2025 period.

Under the Post-9/11 GI Bill, VA pays for tuition and fees at institutions of higher learning and, with certain exceptions, provides monthly housing allowances to beneficiaries while they are in school. Payments for attending public schools cover the full cost of tuition and fees at rates charged to in-state students. Annual payments for education programs at private institutions are capped at about \$21,000 for 2016. (That limit is adjusted annually for inflation.)

TABLE 2.—ESTIMATED EFFECTS OF H.R. 3016 ON DIRECT SPENDING

|                                  | By fiscal year, in millions of dollars— |      |      |      |      |      |      |      |      |      |           |           |  |
|----------------------------------|---|------|------|------|------|------|------|------|------|------|-----------|-----------|--|
|                                  | 2016                                    | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2016–2020 | 2016–2025 |  |
| CHANGES IN DIRECT SPENDING       |   |      |      |      |      |      |      |      |      |      |           |           |  |
| Transferred Education Benefits   |   |      |      |      |      |      |      |      |      |      |           |           |  |
| Estimated Budget Authority       | -10                                     | -24  | -41  | -64  | -79  | -87  | -98  | -110 | -123 | -137 | -218      | -773      |  |
| Estimated Outlays                | -10                                     | -24  | -41  | -64  | -79  | -87  | -98  | -110 | -123 | -137 | -218      | -773      |  |
| Payments for Flight Training     |   |      |      |      |      |      |      |      |      |      |           |           |  |
| Estimated Budget Authority       | -4                                      | -8   | -19  | -20  | -22  | -23  | -25  | -26  | -27  | -29  | -73       | -203      |  |
| Estimated Outlays                | -4                                      | -8   | -19  | -20  | -22  | -23  | -25  | -26  | -27  | -29  | -73       | -203      |  |
| Fry Scholarships                 |   |      |      |      |      |      |      |      |      |      |           |           |  |
| Estimated Budget Authority       | 2                                       | 4    | 7    | 11   | 11   | 3    | 3    | 3    | 3    | 3    | 35        | 50        |  |
| Estimated Outlays                | 2                                       | 4    | 7    | 11   | 11   | 3    | 3    | 3    | 3    | 3    | 35        | 50        |  |
| Credit for Time in Medical Care  |   |      |      |      |      |      |      |      |      |      |           |           |  |
| Estimated Budget Authority       | 1                                       | 2    | 3    | 4    | 4    | 5    | 5    | 5    | 5    | 6    | 14        | 40        |  |
| Estimated Outlays                | 1                                       | 2    | 3    | 4    | 4    | 5    | 5    | 5    | 5    | 6    | 14        | 40        |  |
| Work-Study Program               |   |      |      |      |      |      |      |      |      |      |           |           |  |
| Estimated Budget Authority       | *                                       | 1    | 1    | 1    | 1    | *    | 0    | 0    | 0    | 0    | 4         | 4         |  |
| Estimated Outlays                | *                                       | 1    | 1    | 1    | 1    | *    | 0    | 0    | 0    | 0    | 4         | 4         |  |
| Loan Guarantee Limit             |   |      |      |      |      |      |      |      |      |      |           |           |  |
| Estimated Budget Authority       | 4                                       | 5    | 5    | 5    | 5    | 6    | 7    | 7    | 8    | 15   | 24        | 67        |  |
| Estimated Outlays                | 4                                       | 5    | 5    | 5    | 5    | 6    | 7    | 7    | 8    | 15   | 24        | 67        |  |
| Total Changes in Direct Spending | -7                                      | -20  | -44  | -63  | -80  | -96  | -108 | -121 | -134 | -142 | -214      | -815      |  |
| Estimated Budget Authority       | -7                                      | -20  | -44  | -63  | -80  | -96  | -108 | -121 | -134 | -142 | -214      | -815      |  |
| Estimated Outlays                | -7                                      | -20  | -44  | -63  | -80  | -96  | -108 | -121 | -134 | -142 | -214      | -815      |  |

Note: \* = between \$0 and \$500,000.

In addition, students who face tuition and fees above what VA will cover—students at certain private schools and out-of-state students attending public schools—may be eligible to have part or all of their remaining expenses covered under the Yellow Ribbon GI Education Enhancement Program (YRP). Institutions participating in the YRP agree to cover a portion of the difference between the tuition charged and the amount that VA would otherwise pay. VA then matches that financial assistance, thereby reducing or eliminating students' out-of-pocket expenses.

Service members and veterans can use those benefits themselves or transfer up to a total of 36 months of benefits to their spouses and children after serving at least six years in the military. Spouses can use the benefits as soon as they are transferred, but children must wait until the member has completed 10 years of service.

*Transferred Education Benefits.* Section 301 would modify the authorities under which service members may transfer education benefits to their dependents. On net, those changes would reduce direct spending by \$773 million over the 2016–2025 period, CBO estimates.

Section 301 would reduce by half the monthly housing allowance paid to children who use transferred benefits. That reduction would apply to benefits that are transferred to children 180 days or more after the bill is enacted. Based on current payment levels and adjusting for expected inflation, CBO estimates that the annual payment for the housing allowance under the Post-9/11 GI Bill will average about \$7,000 in 2016 and \$7,900 over the 2016–2025 period. (That annual payment may represent an academic years' worth of benefits for one student or portions of an academic year for two or more students.)

Based on data from the Department of Defense (DoD), CBO estimates that about 28,000 service members will transfer their education benefits to their children each year. Less than 10 percent of children who receive transferred benefits will be college-aged at the time of the transfer and only half will reach college age during the subsequent 10-year period. Most service members will have completed at least 10 years of service by the time their children are old enough to attend college. Thus, the reduction in the housing allowance would affect a small number of annual payments initially—about 2,000 in 2016. The number of reduced payments would increase over time to nearly 40,000 annual payments in 2025. CBO estimates that the number of annual payments that would be cut in half under section 301 would total roughly 220,000 over the 2016–2025 period, reducing direct spending by \$900 million.

Section 301 also would change the terms under which service members may transfer Post-9/11 GI Bill benefits to their spouses and children. Under current law, members must serve at least six years and agree to serve another four years to transfer their benefits. Under section 301, members would have to serve at least 10 years, and agree to serve an additional two years in order to transfer benefits. Spouses and children would be allowed to begin using benefits as soon as they are transferred by the member.

CBO expects that those changes would cause some service members to leave the military and use their benefits themselves, rather

than transfer them to their dependents. Because service members would have to wait four more years before committing to additional military service, they would have more opportunities to leave the armed forces. Also, spouses would have to wait an additional four years to use transferred benefits, somewhat reducing their value to the spouse. Finally, the length of service required from the member would increase from 10 years to 12 years.

Based on the rate at which personnel leave the military between their 6th and 10th years of service, CBO estimates that each year about 2,000 members who would have committed to additional service in order to transfer benefits under current law would, under this provision, leave the military and retain those benefits for their own use. That change would have several offsetting effects that would increase net direct spending by about \$130 million over the 2016–2025 period, CBO estimates. Those effects include:

- Increased costs of \$560 million for an additional 20,000 service members who would separate and use additional benefits;
- Increased costs of \$40 million for the roughly 2,000 additional recruits who would replace those separating service members, some of whom would later separate and use education benefits near the end of the budget window;
- Decreased costs of \$270 million because spouses who do receive transferred benefits would have to wait an additional four years to receive them, reducing the total number of spouses who attend school over the next 10 years by about 6,500;
- Decreased costs of \$100 million because about 4,700 fewer spouses would receive transferred benefits; and
- Decreased costs of \$100 million because about 14,000 fewer children would receive transferred benefits, about 2,000 of whom would have reached college age during the next 10 years.

*Payments for Flight Training.* Section 306 would cap payments for tuition and fees for educational programs that involve flight training. Flight-training programs require significant expenditures for aircraft purchases, equipment maintenance, aviation fuel, and insurance. In 2014, VA paid an average of \$42,000 in tuition and fees for all beneficiaries enrolled in flight-training programs at public institutions. The maximum benefit for tuition and fees for flight trainees at private institutions was \$19,400 that year.

Section 306 would apply the limit for private institutions to all flight-training programs. (Students who are enrolled in flight-training programs before enactment of H.R. 3016 would not see their education benefits reduced for two years.) Payments for students whose tuition is below the new cap would not be affected. In 2014, the average cost for the 544 students whose tuition and fees exceeded the \$19,400 limit applicable to private institutions for that year was about \$62,000, a difference of \$42,600. (That number excludes students at programs currently precluded from enrolling new students receiving VA education benefits.) In total, payments to schools would decline by \$342 million over the 2016–2025 period as a result of the cap, CBO estimates.

Under the bill, the savings realized by capping tuition payments would be partially offset because some students may be eligible for additional assistance under the Yellow Ribbon Program.

Based on data from VA that reflects payments under the YRP, CBO expects that about 90 percent of the institutions affected by the new cap on flight-training costs would make qualifying contributions under the YRP, and those contributions would cover about 45 percent of the difference between the listed amount for tuition and fees and the limit on VA payments for those costs. Thus, reductions in benefit payments for flight training would be about 40 percent less than what they would be in the absence of the Yellow Ribbon Program. VA's matching payments under the YRP would total \$139 million over the 2016–2025 period.

On that basis, CBO estimates that in most years about 600 individuals would be affected by the new limit on tuition and fees. The number of students affected would be smaller in 2016 and 2017 because payments for students who enrolled before H.R. 3016 was enacted would not be reduced in those years. In 2018, the first year that the cap would apply to payments for all students in flight training, payments for affected students would decline by about \$30,000. That amount would increase annually because the gap between flight-training costs and the new cap would increase with inflation. CBO estimates that, in total, enacting section 306 would decrease direct spending by \$203 million over the 2016–2025 period.

*Fry Scholarships.* The Marine Gunnery Sergeant John David Fry Scholarship provides 36 months of education benefits under the Post-9/11 GI Bill to spouses and children of service members who died on active duty at any time after September 11, 2001. Section 302 would enhance that benefit by allowing those individuals to receive payments under the Yellow Ribbon Program and by giving certain spouses more time to use the benefit. In total, section 302 would increase direct spending by \$50 million over the 2016–2025 period, CBO estimates.

Under current law, service members must complete at least 36 months of active duty or be discharged from the military for a service-connected disability to earn YRP benefits. (Spouses and children who receive transferred benefits from members who were eligible for the YRP program can also receive that additional assistance.) Under the bill, recipients of the Fry Scholarship could receive additional education assistance through the Yellow Ribbon Program; thus, the roughly 6,000 dependents who use Fry Scholarship benefits each year also would become eligible for YRP assistance.

In 2014, VA made payments averaging \$5,700 for 6 percent of the students who were eligible for the Yellow Ribbon Program. About 6,000 people with Fry Scholarships will attend school each year, CBO estimates. Assuming the same percentage of students with Fry Scholarships get similar YRP benefits (adjusted for inflation), those additional payments would increase direct spending by \$25 million over the 2016–2025 period, CBO estimates.

Section 302 also would extend the time that certain spouses have to use Fry Scholarship benefits before they expire. On January 1, 2015, the Fry Scholarship was expanded to include spouses. Under current law, those spouses have 15 years after the service member's death to use their benefits; thus, some spouses have fewer

than four years before their benefits will expire. Section 302 would allow spouses of service members who died between September 11, 2001, and December 31, 2005, up to 51 additional months to use their benefits. Approximately 2,000 service members with spouses died during that period, and their spouses would not have time to use any or all of their Fry Scholarship under current law. CBO estimates that direct spending on education benefits would increase by \$25 million over the 2016–2025 period, because of the additional time for spouses to use their benefits.

*Credit for Time in Medical Care.* Section 307 would allow the time a reservist serves on active duty while receiving medical care or undergoing a medical evaluation, to count as qualifying active service for accruing education benefits under chapter 33. Based on historical data from the Department of Defense regarding such activations, CBO estimates that about 1,000 reservists will be called to active duty for those reasons annually, and spend an average of seven months in that status. For those individuals, that additional qualifying service could result in a roughly 15 percent increase in annual benefits under chapter 33—about \$2,500 per person in 2016.

However, some activated reservists will already qualify for the maximum benefit as a result of other time on active duty; others would not use their benefits at all, even if the amount of the benefit were increased. Based on personnel data from DoD, CBO estimates that under section 307, about half of the reservists who are activated for medical care would receive and use additional benefits as a result of that service. Section 307 would apply to active-duty service after the date of enactment of the bill; thus, the initial budgetary effect would be small—about \$1 million in 2016. As the population of veterans who would benefit from the provision grew over time, annual costs would increase to about \$5 million. In total, the additional payments from VA for those benefits would increase direct spending by \$40 million over the 2016–2025 period, CBO estimates.

*Work-Study Program.* Section 308 would renew for five years an expired authority to pay veterans to work in certain positions at VA while they are using educational assistance. Under the program, veterans could be paid the minimum wage for up to 25 hours per week for working in VA hospitals, nursing homes, retirement homes, and veterans' cemeteries, or for performing outreach services to other veterans. The authority to hire veterans in those positions expired on June 30, 2013. Section 308 would restart the program on June 30, 2016.

In 2012, the last full year before the authority expired, VA paid an average of \$2,750 to about 400 veterans who performed such work. CBO expects that participation would be similar under the renewed program; therefore, we estimate that enacting section 308 would increase direct spending by \$4 million over the 2016–2021 period.

*In-State Tuition for Dependents.* For dependents who receive transferred benefits under chapter 33, section 408 would require public institutions of higher learning to set tuition and fees at rates that are no higher than those charged to state residents. Institutions that declined to do so would be disapproved for attendance by students using VA education benefits. To the extent that public in-

stitutions complied and lowered prices for such beneficiaries, the difference between the rate charged by the institution and the amount paid by VA would decline or disappear. Thus VA would not have to provide matching payments under the Yellow Ribbon Program for institutions that would have covered part of that difference, and spending for that program would decline.

Section 408 is similar to a requirement in current law that public institutions must offer in-state tuition rates to veterans who were discharged within the three-year period preceding their enrollment in the institution. That requirement should similarly reduce mandatory spending under the YRP. However, the Secretary of Veterans Affairs has waived the disapproval of institutions that do not offer in-state tuition to veterans, reducing the incentive for public institutions to offer that lower rate. The Secretary's waiver would similarly apply to dependents who would otherwise be affected by the enactment of section 408. CBO expects that VA will continue to waive the requirement in current law; therefore, enacting section 408 would not affect direct spending.

*Loan Guarantee Limit.* VA provides partial loan guarantees to lenders that make home loans to veterans. The guarantee payment from VA is capped at 25 percent of the initial loan balance, up to the maximum loan amount established by the Federal Home Loan Mortgage Corporation Act, currently \$417,000. (Loans at or below that level are known as conforming loans; loans in excess are called jumbo loans. Exceptions are made to the conforming limit for certain high-cost areas like Hawaii and Alaska.)

Section 501 would eliminate the cap on the loan amount for which VA can provide a guarantee of 25 percent. As a result, VA would provide a larger guarantee amount for some jumbo loans that it will already cover under current law. Additionally, some veterans who would not have used the benefit because of the guarantee limit would do so if section 501 were enacted. From October 2008, to December 2014, the maximum loan amount for which VA could provide a full guarantee was temporarily increased to \$729,750. Based on information about the jumbo loans VA guaranteed during that period, CBO estimates that if the loan limit were removed, VA would increase the guaranteed amount by about \$100,000 on average for about 5,000 loans a year that it will otherwise guarantee for a lesser amount under current law. Also, VA would guarantee an additional 1,000 loans annually with an average loan amount of about \$700,000. As a result, the annual loan volume that VA would guarantee would grow by an average of \$1.2 billion. Because the subsidy costs of VA's loan guarantees are considered direct spending, increasing the loan volume would increase direct spending.<sup>1</sup> Based on the experience from VA's loan guarantee program, CBO estimates that enacting section 501 would increase direct spending by \$4 million in 2016 and \$67 million over the 2016–2025 period.

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<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 an payments to the government, including origination fees, other fees, penalties, and recoveries on defaulted loans. Such subsidy costs are calculated by discounting those expected cash flows using the rate on Treasury securities of comparable maturity. The resulting estimated subsidy costs are recorded in the budget when the loans are disbursed.

*Spending subject to appropriation*

H.R. 3016 would expand the types of medical care provided by VA. It also would establish a new organization in VA to administer several job training, readjustment, and benefit programs, and would transfer certain job training and placement programs from the Department of Labor to VA. Finally, the bill would improve the systems and methods for processing benefit claims, and require VA to provide certain reports and studies. In total, CBO estimates that implementing the bill would cost \$234 million over the 2016–2020 period, assuming appropriation of the necessary amounts (see Table 3).

*Medical Care.* The bill would expand neonatal care, increase the benefits paid to podiatrists at VA, establish a pilot program for certain veterans to train service dogs, and require periodic reviews of VA's budget for health care. In total, implementing those provisions would increase costs by \$100 million, CBO estimates.

*Care for Newborns.* Section 103 would authorize VA to provide up to 42 days of health care to newborn children of female veterans who receive maternity care through the department. Under current law, VA may provide such care for no more than seven days after delivery.

Based on data from VA, CBO estimates that that 11 percent (or 240) of the roughly 2,200 eligible births that occur each year are complicated births that require neonatal care beyond seven days. Based on information from the Agency for Healthcare Research and Quality, and excluding the days over 42, the average length of stay for neonatal care for complicated births (for example, premature delivery, low birth weight, and fetal-growth retardation) is 15 days. Using information from VA, we estimate that the average daily cost for complicated births is about \$4,000. As a result, and adjusting for anticipated inflation, CBO estimates that implementing this proposal would cost \$50 million over the 2016–2020 period.

Table 3.—Budgetary Effects of H.R. 3016, The Veterans Employment, Education, and Health Care Improvement Act

|   | By fiscal year, in millions of dollars— |      |      |      |      |           |
|---|---|------|------|------|------|-----------|
|   | 2016                                    | 2017 | 2018 | 2019 | 2020 | 2016–2020 |
| SPENDING SUBJECT TO APPROPRIATION                           |   |      |      |      |      |           |
| Care for Newborns   |   |      |      |      |      |           |
| Estimated Authorization Level .....                         | 7                                       | 9    | 10   | 12   | 13   | 51        |
| Estimated Outlays .....                                     | 6                                       | 9    | 10   | 12   | 13   | 50        |
| Podiatrists   |   |      |      |      |      |           |
| Estimated Authorization Level .....                         | 5                                       | 6    | 7    | 8    | 9    | 35        |
| Estimated Outlays .....                                     | 4                                       | 6    | 7    | 8    | 9    | 34        |
| Dog Training Therapy  |   |      |      |      |      |           |
| Estimated Authorization Level .....                         | 2                                       | 2    | 2    | 2    | 2    | 10        |
| Estimated Outlays .....                                     | 2                                       | 2    | 2    | 2    | 2    | 10        |
| Outreach on Credit Protection                               |   |      |      |      |      |           |
| Estimated Authorization Level .....                         | 1                                       | 2    | 1    | 1    | 1    | 6         |
| Estimated Outlays .....                                     | 1                                       | 2    | 1    | 1    | 1    | 6         |
| Veterans Economic Opportunity and Transition Administration |   |      |      |      |      |           |
| Estimated Authorization Level .....                         | *                                       | 30   | 10   | 10   | 10   | 60        |
| Estimated Outlays .....                                     | *                                       | 27   | 12   | 10   | 10   | 59        |
| Transfer Labor Programs to VA                               |   |      |      |      |      |           |
| Estimated Authorization Level .....                         | 14                                      | 4    | 2    | 2    | 2    | 24        |
| Estimated Outlays .....                                     | 10                                      | 7    | 3    | 2    | 2    | 24        |

Table 3.—Budgetary Effects of H.R. 3016, The Veterans Employment, Education, and Health Care Improvement Act—Continued

|   | By fiscal year, in millions of dollars— |      |      |      |      |           |
|---|---|------|------|------|------|-----------|
|   | 2016                                    | 2017 | 2018 | 2019 | 2020 | 2016–2020 |
| Claims Processing                       |   |      |      |      |      |           |
| Authorization Level .....               | 40                                      | 0    | 0    | 0    | 0    | 40        |
| Estimated Outlays .....                 | 27                                      | 9    | 2    | 1    | 1    | 40        |
| Information on Benefit Entitlement      |   |      |      |      |      |           |
| Estimated Authorization Level .....     | 5                                       | 0    | 0    | 0    | 0    | 5         |
| Estimated Outlays .....                 | 4                                       | 1    | 0    | 0    | 0    | 5         |
| Reports, Surveys, and Studies           |   |      |      |      |      |           |
| Estimated Authorization Level .....     | 2                                       | 1    | 1    | 1    | 1    | 6         |
| Estimated Outlays .....                 | 2                                       | 1    | 1    | 1    | 1    | 6         |
| Total Spending Subject to Appropriation |   |      |      |      |      |           |
| Estimated Authorization Level .....     | 76                                      | 54   | 33   | 36   | 38   | 237       |
| Estimated Outlays .....                 | 56                                      | 64   | 38   | 37   | 39   | 234       |

Note: VA = Department of Veterans Affairs; \* = between \$0 and \$500,000.

*Podiatrists.* Section 101 would require VA to treat podiatrists as physicians for the purposes of pay, recruitment, and retention. Over the next five years, CBO expects that VA will employ, on average, about 400 podiatrists at an annual salary of \$195,000. Based on pay data from VA, CBO estimates that this proposal would increase that compensation by 6 percent to an average of \$210,000 over that period. In addition, CBO expects that the higher level of compensation would enable VA to be more successful in recruiting podiatrists. Accordingly, we estimate that over the 2016–2020 period, the number of podiatrists VA employs each year would increase to an average of 420. As a result, CBO estimates that implementing section 101 would increase personnel costs by \$34 million over the 2016–2020 period.

*Dog Training Therapy.* Section 106 would require VA to establish a pilot program through which veterans diagnosed with post-traumatic stress disorder or other mental health conditions would train service dogs for use by other disabled veterans. The pilot program would operate in up to five medical centers over a five-year period. Based on the cost of a similar VA program in Palo Alto, California, CBO expects that each facility would train six service dogs every two years using one certified dog trainer. CBO estimates that implementing the provision would cost \$10 million over the 2016–2020 period.

*Outreach on Credit Protection.* Section 105 would require VA to inform veterans about the negative effects on their credit score from overdue copayments to VA for emergency care provided at nondepartment facilities. VA also would be required to operate a toll-free line for veterans to report such credit issues to VA. CBO expects that implementing these requirements would require five additional employees at an annual cost of \$1 million.

Section 105 would also require the Government Accountability Office to conduct an analysis on the timeliness of VA payments to non-VA providers of health care. Based on the resources necessary for previous studies, CBO estimates such a study would cost \$1 million. In total, implementing section 105 would cost \$6 million over the 2016–2020 period, CBO estimates.

*Economic Opportunity and Transition Administration.* Title II of the bill would create a new administration at VA to manage programs for readjustment benefits, home-loan guarantees, and small-

business assistance. The title also would transfer the responsibilities for the veterans' employment programs administered by the Department of Labor to VA. In total, CBO estimates that implementing title II would increase costs by \$83 million.

*Veterans Economic Opportunity and Transition Administration.* Beginning in fiscal year 2017, sections 201 and 202 would establish the Veterans Economic Opportunity and Transition Administration (VEOTA). The Veterans Benefits Administration (VBA) currently manages the following benefit programs for veterans and other eligible individuals:

- Disability compensation;
- Pension, dependency and indemnity compensation, burial, and fiduciary programs;
- Readjustment benefits (including education and vocational rehabilitation benefits);
- Home-loan guarantees;
- Small business programs; and
- Insurance.

This bill would transfer some programs that are currently administered by VBA to VEOTA. Under this new organizational structure, all readjustment benefit programs (including employment programs), the home-loan guarantee program, and veterans' small business programs would instead be managed by VEOTA. VBA and VEOTA each would be led by an Undersecretary. Section 201 would limit the total number of full-time equivalent (FTE) positions serving in both administrations to 22,118 in fiscal years 2017 and 2018.

Based on information from VA, there are currently about 4,400 VA employees who oversee and carry out the benefits programs that would transfer to VEOTA under this provision. CBO estimates that those personnel, and the records, property, and budgetary resources currently used by VBA to manage those programs also would be transferred. Using the current operating costs for VBA of \$137 million, we estimate a 10 percent increase in 2017 to capture moving expenses, IT costs and other reorganization expenses, and about a 3 percent increase thereafter for ongoing operating expenses. Those estimated additional operating costs would total about \$50 million over 2016–2020 period. In addition, CBO estimates that VEOTA would require an additional 20 FTE positions at an average annual cost of \$180,000 to manage the daily operations of the new administration. As a result, CBO estimates costs of \$9 million for additional staff.

CBO estimates that establishing VEOTA and transferring the programs, personnel, and accompanying assets and hiring the additional 20 personnel would cost \$59 million over the 2016–2020 period.

*Veterans Employment and Training Services.* In 2014, DOL employed about 230 individuals and spent about \$230 million to provide employment, job training, and reintegration services to veterans. Section 203 would transfer those veterans-related programs to VA, under VEOTA (as established in section 201). CBO estimates that implementing that provision would cost \$24 million over the 2016–2020 period. Those costs primarily reflect building the necessary information technology (IT) systems for grant management and relocating staff.

Many of the transferred programs are grant programs that require grant management and data collection systems to analyze and evaluate the effectiveness of each program. Under current law, DOL relies on its customized IT systems to manage those programs. Those systems are currently used throughout DOL and embedded in the department's greater IT infrastructure. CBO expects that VA would need to develop its own grant management system to distribute and manage the grants and collect the comprehensive data necessary to comply with the statutory reporting requirements of the transferred programs. Based on information from DOL, CBO estimates that it would cost \$18 million over the 2016–2020 period to develop and maintain the IT systems.

Based on information from DOL, CBO estimates that about 140 of the 230 transferring employees work outside of the Washington, D.C. area. CBO assumes that those personnel would remain at their current locations after VA takes responsibility for their functions. The remaining individuals would relocate from DOL to a VA facility. Based on information from the General Services Administration (GSA), CBO estimates that it would cost about \$20,000 to move each of those employees within the District of Columbia.

Because VA already leases space to accommodate some of their current employees, CBO expects that it would need to lease additional space to accommodate the 90 relocated employees. Based on GSA planning estimates, VA would need to lease about 18,000 square feet of office space at a cost of about \$40 per square foot. Because those employees are intermingled with other DOL employees, CBO expects that DOL would not be able to consolidate space very quickly. Thus, any reduction in costs for DOL from the relocated employees would be less than the increase in costs for VA over the first few years. On net, CBO estimates that it would cost about \$6 million to move 90 employees and lease office space over the 2016–2020 period.

*Benefit Processing Improvements.* H.R. 3016 would make several changes to the systems and methods used to process benefit claims. In total, those changes would increase costs by \$45 million.

*Claims Processing.* Section 407 would require VA to maximize the use of automation and algorithms in systems used to process claims for educational assistance under the Post-9/11 GI Bill (Chapter 33) and would authorize the appropriation of \$30 million in 2016 for that purpose.

Section 310 would require VA to reduce the number of IT systems used to process payments for vocational rehabilitation benefits and to ensure that such payments on behalf of a particular veteran are paid from only one system. It would authorize the appropriation of \$10 million in 2016 for that purpose.

CBO estimates that implementing those provisions would cost \$40 million over the 2016–2020 period, assuming appropriation of the specified amounts.

*Information on Benefit Entitlement.* Section 402 would require VA to allow institutions of higher learning to obtain information on the educational assistance to which a veteran is entitled via a secure IT system. CBO expects that VA could accomplish that requirement by modifying systems that are currently used to provide other information to such institutions. Based on information from VA, CBO estimates that modifying those systems would cost \$5

million over the 2016–2020 period, assuming appropriation of the estimated amounts.

*Reports, Surveys, and Studies.* The bill would require VA to produce a total of nine reports on matters such as medical care, benefit processing, and contract set-asides for veteran-owned business. It also would require a survey of veterans using educational benefits, and a multiyear study on job counseling and placement programs. Based on the costs of similar studies and reports, CBO estimates that meeting those requirements would cost a total of \$6 million over the 2016–2020 period.

*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. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 3016 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON VETERANS' AFFAIRS ON SEPTEMBER 17, 2015

|                                       | By fiscal year, in millions of dollars— |      |      |      |      |      |      |      |      |      |           |           |
|---------------------------------------|---|------|------|------|------|------|------|------|------|------|-----------|-----------|
|                                       | 2016                                    | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2016–2020 | 2016–2025 |
| NET INCREASE IN THE ON-BUDGET DEFICIT |   |      |      |      |      |      |      |      |      |      |           |           |
| Statutory Pay-As-You-Go Impact .....  | -7                                      | -20  | -44  | -63  | -80  | -96  | -108 | -121 | -134 | -142 | -214      | -815      |

Increase in long term direct spending and deficits: CBO estimates that enacting H.R. 3016 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

*Intergovernmental and private-sector impact* H.R. 3016 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. State agencies that serve veterans would benefit from contact and service information about veterans provided electronically by VA.

*Previous cost estimates:* On August 26, 2015, CBO transmitted a cost estimate for H.R. 475, the GI Bill Processing Improvement and Quality Enhancement Act of 2015, as ordered reported by the House Committee on Veterans' Affairs on May 21, 2015. Sections 102 and 103 of that bill are similar to sections 306 and 307 of H.R. 3016 and the estimated costs are the same. Section 104 of H.R. 475 is similar to section 501 of H.R. 3016. CBO estimates a smaller cost in fiscal year 2016 for section 501 than we estimated for the earlier provision because of the later expected date of enactment.

Estimate prepared by: Federal Costs: Ann E. Futrell, David Newman, and Dwayne M. Wright; Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 3016, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 3016, as amended.

## STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 3016, as amended, establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee estimates that H.R. 3016, as amended, contains no directed rule making that would require the Secretary to prescribe regulations.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

## TITLE I—VETERANS HEALTH CARE

*Section 101. Role of podiatrists in Department of Veterans Affairs*

Section 101(a) would amend subchapter I of chapter 74 of title 38, U.S.C., to create a new section entitled, "7413. Treatment of podiatrists." This new section would specify that the term "physician" includes a podiatrist for purposes of this chapter. It would also amend the table of sections at the beginning of chapter 74 of title 38, U.S.C., by inserting after the item relating to section 7412 the following new item, "7413. Treatment of podiatrists." It would further amend section 7401(1) of title 38, U.S.C., by striking "Physicians, dentists, podiatrists" and inserting "Physicians, dentists."

Section 101(b) would amend section 7402(b) of title 38 U.S.C., in paragraph (1), subparagraph (A) by striking “or of doctor of osteopathy” and inserting “doctor of osteopathy, or doctor of podiatric medicine” and in paragraph (C) by inserting “podiatry” after “surgery,” by striking paragraph (5), and by redesignating paragraphs (6) through (14) as paragraphs (5) through (13), respectively.

Section 101(c) would amend section 7403(a)(2) of title 38, U.S.C., by striking subparagraph (C) and by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

Section 101(d) would amend the list in section 7404(b) of title 38, U.S.C., by striking “CLINICAL PODIATRIST, CHIROPRACTOR, AND OPTOMETRIST SCHEDULE” and inserting “CLINICAL CHIROPRACTOR AND OPTOMETRIST SCHEDULE” and would require this amendment to apply with respect to a VA pay period beginning on or after the date that is 30 days after the date of the enactment of this Act.

Section 101(e) would amend section 7409(a) of title 38, U.S.C., by striking “podiatrists”.

Section 101(f) would amend section 7421(b) of title 38, U.S.C., by striking paragraph (3) and by redesignating paragraphs (4) through (8) as paragraphs (3) through (7).

Section 101(g) would amend section 7306(a)(4) of title 38, U.S.C., by inserting “, doctor of podiatric medicine,” after “doctor of medicine.”

Section 101(h) would require the amendments made by this Section to apply with respect to podiatrists employed by VA as of the date of the enactment of this Act or who are appointed on or after such date.

*Section 102. Priority of Medal of Honor recipients in health care system of Department of Veterans Affairs*

Section 102(a) would amend section 1705(a) of title 38, U.S.C., in paragraph 1, by striking the period at the end and inserting “and veterans who were awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14” and, in paragraph 3, by striking “veterans who were awarded the medal of honor under section 3741, 6241, or 8741 or title 10 or section 491 of title 14.”

Section 102(b) would amend section 1710(a)(2)(D) of title 38, U.S.C., by inserting “who was awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14” after “war.”

Section 102(c) would amend section 1710B(c)(2) of title 38, U.S.C., by striking “or” in subparagraph (B), by striking the period at the end and inserting “; or” in subparagraph (C), by adding at the end a new subparagraph (D) to read “(D) to a veteran who was awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.”

Section 102(d) would amend 1722(a)(3) of title 38, U.S.C., by striking “or” in subparagraph (B), by striking the period at the end and inserting “; or” in subparagraph (C), and by adding at the end a new subparagraph (D) to read “(D) to a veteran who was awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.”

Section 102(e) would require that the priority of enrollment of medal of honor recipients pursuant to chapter 17 of title 38, U.S.C., shall apply to each medal of honor recipient, regardless of the date on which the medal is awarded.

*Section 103. Improvement of care provided to newborn children*

Section 103 would amend section 1786 of title 38, U.S.C., by striking “seven days” and inserting “42 days” and by adding a new subsection to read “(c) Annual Report—Not later than October 31, 2016, and each year thereafter through 2020, the Secretary shall submit to the Committees on Veterans’ Affairs of the House of Representatives and the Senate a report on the health care services provided under subsection (a) during the fiscal year preceding the date of the report, including the number of newborn children who received such services during such fiscal year.”

*Section 104. Comptroller general audit of budget of Veterans Health Administration*

Section 104(a) would amend subchapter II of chapter 73 of title 38, U.S.C., by creating a new section entitled, “7330B. Comptroller General audit of VHA budget.” The new section would require that the Comptroller General of the United States conduct periodic audits of the elements of the Veterans Health Administration budget including the budget formulation, execution, allocation, and use of funds. It would also require that, in selecting elements of the Veterans Health Administration budget to audit, the Comptroller General is required to take knowledge of Veterans Health Administration programs, current issues, national priorities, and priorities expressed by the appropriate congressional committees into consideration. The new section would further require that the Comptroller General submit notice to the appropriate congressional committees of the elements of the Veterans Health Administration budget selected for audit by not later than 30 days before conducting the audit. The appropriate congressional committees are defined as the Committees on Veterans’ Affairs, the Committees on Appropriations, and the Committees on the Budget of the Senate and the U.S. House of Representatives.

*Section. 105. Outreach to veterans regarding effect of certain delayed payments by department of veterans affairs chief business office*

Section 105(a) would require that the Secretary of Veterans Affairs conduct outreach, including through national and local veterans service organizations, to inform veterans of how to resolve credit issues caused by delayed payment by VA of a claim for emergency hospital care, medical services, or other emergency health care furnished through a non-VA provider. It would also require the Secretary of Veterans Affairs to establish a toll-free number for veterans to report such credit issues to the VA Chief Business Office.

Section 105(b) would require the Secretary of Veterans Affairs, during the five-year period beginning on the date of enactment of this Act, to submit an annual report on the effectiveness of the Chief Business Office in providing timely payment of proper invoices for emergency hospital care, medical services, or other emer-

gency health care furnished through non-VA providers during both the five-year period and the one-year period preceding the date of the report. For any part of the period of the report that occurred before October 1, 2014, the report would be required to evaluate such payments by Veterans Integrated Service Network. The annual reports would further be required, for each period covered by the report, to include: the number of veterans who contacted the Secretary regarding a delayed payment that negatively affected, or will potentially negatively affect, the credit of the veteran; the total amount of interest penalties paid by the Secretary of Veterans Affairs under section 3902 of title 31 U.S.C., by reason of delayed payment; the number of proper invoices submitted, listed in a table for each quarter and fiscal year of each such period that includes the total amount owed by the Secretary under the proper invoices, the payment status of each proper invoice as of the date of the report, and the period that elapsed until each proper invoice was paid to include an explanation of any delayed payment; any comments regarding delayed payments made by medical providers; and a description of the best practices that the Chief Business Office can carry out to provide timely payment of a proper invoice to include a plan to improve such timely payments.

Section 105(c) would require the VA Chief Business Office, during the five-year period beginning on the date of the enactment of this Act, to submit quarterly reports to Congress on the number of pending claims for reimbursement for emergency hospital care, medical services, and other emergency health care furnished through non-VA providers. Each quarterly report would be required to include: the total number of such pending claims for each VA hospital system as of the last day of the quarter covered by the report; the total number of veterans who submitted such a pending claim in each state as of such day; the aggregate amount of all such pending claims in each State as of such day; the number of such pending claims that have been pending for 30, 90, or 365 days or longer as of such day; the number of claims for reimbursement for emergency hospital care, medical services, and other emergency health care furnished through non-VA providers approved and denied during such quarter for each hospital system to include, for each denied claim, the number of such claims denied listed by each denial reason group.

Section 105(d) would require the Comptroller General to conduct a study to evaluate the effectiveness of the VA Chief Business Office in providing timely payment of a proper invoice for emergency hospital care, medical services, or other emergency health care furnished through non-VA providers by the required payment date and submit a report on the study to Congress, to include the total amount of interest penalties paid by the Secretary of Veterans Affairs under section 3902 of title 31, U.S.C., by reason of delayed payment.

Section 105(e) would define the term “delayed payment” as a proper invoice that is not paid by the Secretary of Veterans Affairs until after the required payment date, define the term “proper invoice” as the meaning given that term in section 3901(a) of title 31, U.S.C., and define the term “required payment date” as the date that payment is due for a contract pursuant to section 3903(a) of title 31, U.S.C.

*Section 106. Department of Veterans Affairs pilot program on service dog training therapy*

Section 106(a) would require the Secretary of Veterans Affairs, by not later than 120 days after enactment of this Act, to carry out a pilot program under which the Secretary would enter into a contract with one or more appropriate non-government entities for the purpose of assessing the effectiveness of post-deployment mental health and post-traumatic stress disorder symptoms through a therapeutic medium of training service dogs for veterans with disabilities.

Section 106(b) would require the pilot program to be carried out during the five-year period beginning on the date of the commencement of the pilot program.

Section 106(c) would require the Secretary of Veterans Affairs to enter into contracts with appropriate non-governmental entities located in close proximity to at least three but not more than five VA medical centers.

Section 106(d) would define an appropriate non-government entity as an entity that is certified in the training and handling of service dogs and that has a training area that would be appropriate for use in educating veterans with mental health conditions in the art and science of service dog training and handling. The training area would be required to include a dedicated space that is suitable for grooming and training dogs indoors, be wheelchair accessible, include classroom or lecture space, include office space for staff, include a suitable space for storing training equipment, provide for the periodic use of other training areas for training the dogs with wheelchairs and conducting other exercises, include outdoor exercise and toileting space for the dogs, and provide transportation for weekly field trips to train the dogs in other environments.

Section 106(e) would require each contract entered into under Section 106(a) of the bill: to ensure that veterans participating in the program receive training from certified service dog training instructors; to ensure that, in selecting assistance dogs for use in the program, dogs residing in animal shelters or foster homes are looked at as an option, if appropriate, and ensure that all dogs used in the program have adequate temperament and health clearances; to ensure that each service dog in training participating in the pilot program is taught all essential commands pertaining to service dog skills; to ensure that each service dog in training lives at the pilot program site or a volunteer foster home in the vicinity of such site while receiving training; to ensure that the pilot program involves both lecture of a service dog training methodologies and practical hands-on training and grooming of service dogs; to ensure that the pilot program is designed to maximize the therapeutic benefits to veterans participating in the program and provide well-trained service dogs to veterans with disabilities; and to give preference to veterans who have successfully graduated from PTSD or other residential treatment programs and who have received adequate certification in service dog training when hiring service dog training instructors.

Section 106(f) would require that VA administer the pilot program through the Recreational Therapy Service under the direction of a certified recreational therapist with sufficient administrative

experience to oversee the pilot program and establish a director of service dog training with a background in working in social services, experience in teaching others to train service dogs in a vocational setting, and at least one year of experience working with veterans or active duty servicemembers with PTSD in a clinical setting.

Section 106(g) would require the Secretary of Veterans Affairs to select veterans for participation in the pilot program. It would also authorize a veteran with PTSD or other post-deployment mental health condition to volunteer to participate in the pilot program if the Secretary determines that there are adequate program resources available for such veteran at the pilot program site and to participate in the pilot program in conjunction with the VA compensated work therapy program.

Section 106(h) would require the Secretary of Veterans Affairs to collect data on the pilot program to determine how effective the program is for veterans participating in the program and require such data to include how effectively the program assists veterans in: reducing stigma associated with PTSD or other post-deployment mental health conditions; improving emotional regulation; improving patience; instilling or re-establishing a sense of purpose; providing an opportunity to help fellow veterans; reintegrating into the community; exposing the dog to new environments and, in doing so, helping the veteran reduce social isolation and withdrawal; building relationships skills, including parenting skills; relaxing the hyper-vigilant survival state; improving sleep patterns; and enabling veterans to decrease the use of pain medication.

Section 106(i) would require the Secretary of Veterans Affairs to submit a report on the pilot program to Congress not later than one year after the date of the commencement of the pilot program. It would further require that each report include: the number of veterans participating in the pilot program; a description of the services carried out under the pilot program; the effects that participating in the pilot program has on symptoms of PTSD and post-deployment adjustment difficulties (including depression, maintenance of sobriety, suicidal ideations, and homelessness), potentially relevant physiological markers that possibly relate to the interactions with the service dogs, family dynamics, insomnia and pain management, and overall well-being; and the recommendations of the Secretary of Veterans Affairs with respect to the extension or expansion of the pilot program.

Section 106(j) of the bill would define the term “service dog instructor” as an instructor who provides the direct training of veterans with PTSD and other post-deployment issues in the art and science of service dog training and handling.

#### TITLE II—VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION

##### *Section 201. Establishment of Veterans Economic Opportunity and Transition Administration*

Section 201(a) would amend Part V of title 38, U.S.C., to create a new chapter 80 entitled, “Veterans Economic Opportunity and Transition Administration.”

Sec. 8001(a) would create the new Veterans Economic Opportunity and Transition Administration at VA whose primary function would be to administer programs that provide assistance related to economic opportunity to veterans and their dependents.

Sec. 8001(b) would authorize the creation of the Under Secretary for Economic Opportunity and Transition who would be directly responsible to the Secretary of Veterans Affairs and would oversee the operation and administration of the Veterans Economic Opportunity and Transition Administration.

Sec. 8001(c) would authorize the creation of two Deputy Under Secretaries for the new administration. The Deputy Under Secretary for Readjustment created by the Section would be responsible for overseeing programs related to vocational rehabilitation and employment; educational assistance; veterans housing and related programs; and the verification of veteran owned small businesses under section 8127 of title 38, U.S.C. The Deputy Under Secretary for Employment, Training and Transition created by this Section would be responsible for overseeing programs related to job counseling, training, and placement services under chapter 41 of title 38, U.S.C.; employment and training of veterans under chapter 42 of title 38, U.S.C.; administration of employment and employment rights of members of the uniformed services under chapter 43 of title 38, U.S.C.; the Homeless Veterans Reintegration Programs under chapter 20 of title 38, U.S.C.; and the Transition Assistance Program under chapter 1144 of title 10, U.S.C.

Sec. 8002(a) would require that this new administration be responsible for the administration of programs related to the following: vocational rehabilitation and employment; educational assistance; veterans housing and related programs; the verification of veteran owned small businesses under section 8127 of title 38, U.S.C.; job counseling, training, and placement services under chapter 41 of title 38, U.S.C.; employment and training of veterans under chapter 42 of title 38, U.S.C.; employment and employment rights of members of the uniformed services under chapter 43 of title 38, U.S.C.; the Homeless Veterans Reintegration Programs under chapter 20 of title 38, U.S.C.; the Transition Assistance Program under chapter 1144 of title 10, U.S.C.; and any other VA program that the Secretary deems appropriate.

Sec. 8002(b) would require that all of the changes made by the new chapter 80 of title 38, U.S.C., take effect no later than October 1, 2016.

Sec. 8002(c) would require that the total number of full time equivalent employees authorized for the Veterans Benefit Administration and the Veterans Economic Opportunity and Transition Administration for fiscal years 2017 and 2018 may not exceed 22,118.

Sec. 8002(d) clarifies that the creation of this new administration would not affect grant funds provided to organizations through the Homeless Veterans Reintegration Program under chapters 2021 and 2021A of title 38, U.S.C.

*Section 202. Under Secretary for Veterans Economic Opportunity and Transition*

Section 202(a) would amend chapter 3 of title 38, U.S.C., by creating a new section 306.

Sec. 306A(a) would authorize the position of Under Secretary for Veterans Economic Opportunity and Transition. The Section would require that this position be appointed by the President with the advice and consent of the U.S. Senate. The new Under Secretary would be appointed without regard for political affiliation or activity and would be chosen based solely on demonstrated ability in information technology and the administration of programs in similar content or scope to the programs in the new Veterans Economic Opportunity and Transition Administration authorized by Section 201 of this bill.

Sec. 306A(b) would require that the new Under Secretary created by Section 306A(a) be directly responsible to the Secretary for the operations of the new Veterans Economic Opportunity and Transition Administration.

Sec. 306A(c) would require that when there is a vacancy in the position of the new Under Secretary that the Secretary establish a commission to recommend individuals for the position to the President. The commission would be composed of the following members appointed by the Secretary: (1) three persons who are affected by the programs of the new Veterans Economic Opportunity and Transition Administration; (2) two veterans affected by programs of the new Veterans Economic Opportunity and Transition Administration; (3) two persons who have had experience in the management of private sector programs and benefits similar in scope to the programs and benefits of the new Veterans Economic Opportunity and Transition Administration; (4) the VA Deputy Secretary; (5) the chairman of the Veterans Advisory Committee on Education formed under section 3692 of title 38, U.S.C.; and (6) one person who previously held the position of the Under Secretary for Veterans Economic Opportunity and Transition if the Secretary determines that it is desirable for this person to serve on the commission.

This section would also require the commission to submit at least three individuals for the position to the Secretary of Veterans Affairs. The Secretary of Veterans Affairs would be required to submit these names to the President and the House and Senate Committees on Veterans' Affairs for consideration with or without comment. The President may ask the commission to recommend additional individuals following its initial submission. Finally, this Section would require the VA Deputy Assistant Secretary who performs personnel management and labor relations functions to serve as the executive secretary of the commission.

Sec. 306A(d) would require that any individual who is recommended to the President under this Section shall have held a senior level position in the private sector relating to at least one of the following: education policy, vocational rehabilitation, employment, job placement, home loan finance, or small business development.

Section 202(b) would make various conforming amendments to title 38, U.S.C., based on the provisions of the new Sec. 306A.

Section 202(c) would require that provisions of the new Sec. 306A go into effect on October 1, 2016.

*Section 203. Transfer of Department of Labor veterans programs to Department of Veterans Affairs*

Section 203(a) would require DoL to transfer all veterans employment and training programs under chapters 41, 42, 43, and 20 of title 38, U.S.C., to VA's Veterans Economic Opportunity and Transition Administration created by Section 201 of this bill, effective October 1, 2016.

Section 203(b) would require that pursuant to section 1105 of title 31, U.S.C., the President shall include in VA's FY 2017 budget request, and for each subsequent fiscal year, the funding requested for the programs transferred under Section 203(a).

Section 203(c) would require that any Federal law, executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office relating to programs transferred from DoL to VA under Section 203(a) now reference VA.

Section 203(d) would authorize any federal official tasked with implementing the programs and functions being transferred by Section 203(a) to not lose such authority as part of the transfer.

Section 203(e) would require that any legal documents or proceedings that were in effect or under consideration before the transfer from DoL to VA shall remain in effect. This would apply to all contracts, rules, regulations, loans, grants, and suits related to the transfer required by Section 203(a).

Section 203(f) would give the Office of Management and Budget (OMB) the authority to transfer all assets and unexpended balances from DoL to VA as part of the transfer required by Section 203(a).

Section 203(g) would authorize the continuation of current delegations of authority by the Secretary of Labor to continue when the functions are transferred to the VA Secretary under Section 203(a).

Section 203(h) would grant the Director of OMB the authority to make determinations of assets and incidental transfers as it relates to the transfer under Section 203(a).

Section 203(i) would authorize that, for the purposes of this Section, the vesting of a function in the new office of VA shall be considered the transfer of this function.

Section 203(j) would require that existing appropriations made to DoL for the administration of veterans programs would remain available for necessary expenses related to the termination and resolution of such functions, programs, and activities.

Section 203(k) would require the Secretary of Labor and the Secretary of Veterans Affairs to enter into a Memorandum of Understanding (MOU) to carry out the transfer, no later than 180 days following enactment. The MOU would be required to contain information on how VA is going to coordinate with DoL's Employment and Training Agency to share performance measures required by Section 203(l) and ensure coordination and avoid duplication of services authorized by the Workforce Innovation and Opportunity Act (P.L. 113-128). The Departments would be required to submit this MOU to the Committee on Veterans' Affairs and the Committee on Education and the Workforce of the House of Representa-

tives, and the Committee on Veterans' Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate.

Section 203(l) would require VA to create performance and accountability standards for the programs that would be transferred under Section 203(a), which would meet or exceed the standards under section 103 of the Workforce Innovation and Opportunity Act (P.L. 113–128). Additionally, the VA Secretary would be required to ensure that each State submits a joint plan that also meets or exceeds the requirements of section 103 of the Workforce Innovation and Opportunity Act (P.L. 113–128) for activities authorized under chapter 41 of title 38, U.S.C.

Section 203(m) would define several terms used in this Section. The term “function” would include any duty, obligation, power, authority, responsibility, right, privilege, activity, or program. The term “office” would include any office administration agency, bureau, institute, council, unit, organizational entity, or component thereof.

*Section 204. Deputy Under Secretary of Veterans Affairs for veterans Employment, Training, and Transition*

Section 204 would amend section 4102(A) of title 38, U.S.C., to clarify that the Deputy Under Secretary for Employment, Training, and Transition established by subsection 8001(c)(2) of title 38, U.S.C., will oversee all employment and training programs under chapters 41 and 43 of title 38, U.S.C.

*Section 205. Additional technical and conforming amendments*

Section 205 would make various technical and conforming amendments to title 38, U.S.C., related to the transfer of veteran employment and training programs from DoL to VA and the creation of the new Veterans Economic Opportunity and Transition Administration at VA. These amendments would take effect on October 1, 2016.

*Section 206. Use of Federal Directory of New Hires*

Section 206 would amend section 453A(h) of the Social Security Act (42 U.S.C. 653a(h)) by adding a new paragraph (4) that would authorize VA to access the information provided by the Federal Directory of New Hires for tracking veteran employment outcomes.

TITLE III—EDUCATIONAL ASSISTANCE AND VOCATIONAL  
REHABILITATION

*Section 301. Modification and improvement of transfer of unused education benefits to family members under Department of Veteran Affairs Post-9/11 Educational Assistance Program.*

Section 301(a) would amend section 3319(b)(1) of title 38, U.S.C., by changing the service requirements needed for a servicemember to transfer unused Post-9/11 G.I. Bill benefits to eligible dependents. Current law requires that to be eligible for the transfer, the servicemember must have served six years on active duty and agree to serve an additional four more years. This Section would modify this by requiring that to be eligible, a servicemember serve ten years on active duty and agree to serve an additional two years

in order to transfer Post-9/11 G.I. Bill benefits to eligible dependents.

Section 301(b) would amend section 3319(g)(1)(A) of title 38, U.S.C., by striking six years and inserting ten years for the commencement of use of Post-9/11 G.I. Bill benefits by eligible dependents.

Section 301(c) would amend section 3319(h)(3)(B) of title 38, U.S.C., by requiring the amount of the monthly stipend described in sections 3313(c)(1)(B) and 3313(g)(3)(A)(ii) of title 38 of U.S.C., payable to children eligible for Post-9/11 G.I. Bill benefits, to be equal to one half of what the servicemember or veteran would receive.

Section 301(d) would make a clerical amendment to section 3319 of title 38, U.S.C., by striking “armed forces” each place it appears and inserting “Armed Services.”

Section 301(e) would make all amendments made by this Section applicable to any transfer of entitlement under section 3319 of title 38, U.S.C., made on or after 180 days following enactment of this section.

*Section 302. Clarification of eligibility for Marine Gunnery Sergeant John David Fry Scholarship.*

Section 302(a) would amend section 701(d) of the Choice Act, to state that for purposes of section 3311(f)(2) of title 38, U.S.C., and the receipt of Fry Scholarship education benefits, any member of the Armed Services who died in the line of duty during the period beginning on September 11, 2001 and ending on December 31, 2005 is deemed to have died on January 1, 2006.

Section 302(b) would amend section 3311(f) of title 38, U.S.C., to clarify that a surviving spouse may revoke the decision to receive chapter 35 education assistance benefits in lieu of the Fry Scholarship benefits made before the date of enactment of this Section.

Section 302(c) would make a technical amendment to paragraph 5 of section 3311(f) of title 38, U.S.C.

Section 302(d) would amend section 3317(a) of title 38, U.S.C., to provide Yellow Ribbon Program eligibility for Fry Recipients for any eligible education program commencing on or after January 1, 2015.

*Section 303. Approval of courses of education and training for purposes of the Vocational Rehabilitation Program of the Department of Veterans Affairs.*

Section 303(a) would amend section 3104 of title 38, U.S.C., to require that, to the maximum extent possible, training courses approved for VR&E services under chapter 31 of title 38, U.S.C., must be approved for education benefits under the G.I. Bill through chapters 30 and 33 of title 38, U.S.C.

Section 303(b) would set the effective date for section 304(a) for one year after enactment of this Section.

*Section 304. Authority to prioritize vocational rehabilitation services based on need*

Section 304 would amend section 3104 of title 38, U.S.C., to give the Secretary of Veterans Affairs the authority to prioritize VR&E services provided to veterans based on need. Section 304 would also

require the Secretary of Veterans Affairs to take the following factors into consideration when determining need: disability ratings, severity of the employment handicap(s), qualification for a program of independent living, income, and any other factor the Secretary of Veterans Affairs determines to be appropriate. The Section would also require the Secretary of Veterans Affairs to submit a plan to Congress no later than ninety days prior to making any changes to the prioritization of VR&E services described by this section.

*Section 305. Recodification and improvement of election process for Post-9/11 Educational Assistance Program*

Section 305(a) would create section 3326 of title 38, U.S.C., by recodifying section 5003(c) of the Post-9/11 Veterans Educational Assistance Act of 2008 (P.L. 110–252). Section 8(h) would be added to this Section and would authorize VA, after January 1, 2016, to make an alternative election for Post-9/11 G.I. Bill benefits if VA believes the veteran’s original choice was not in the veteran’s best interests. Under this Section, if VA makes this election, VA must notify the veteran within seven days and the veteran would be given thirty days in which he/she could change VA’s decision.

Section 305(b) would make a clerical amendment to the table of sections to include this new section 3326.

Section 305(c) would make a conforming repeal to subsection (c) of section 5003 of the Post-9/11 Veterans Educational Assistance Act of 2008 (P.L. 110–252).

*Section 306. Clarification of assistance provided for certain flight training*

Section 306(a) would amend section 3313(c)(1)(A) of title 38, U.S.C., to subject flight training at public schools to the cap on tuition and fees established by 3313(c)(1)(A)(ii) of title 38, U.S.C. For FY 2015, this cap is \$20,235. Under this provision, students would not be allowed to take flight training courses unless the training is specifically required to obtain their degree.

Section 306(b) would amend section 3313(c)(1)(A)(ii)(II) of title 38, U.S.C., to subject any program of education pursued at a public institution of higher learning in which the school enters into a contract or agreement with another entity to provide the program of education, or a portion of the program, to the cap established by 3313(c)(1)(A)(ii)(II) of title 38, U.S.C. For FY 2015, this cap is \$20,235.

Section 306(c) would require that these changes apply to any quarter, semester, or term commencing on or after enactment of the bill. Finally, the new rules would not go into effect for current flight students for two additional years following enactment.

*Section 307. Consideration of certain time spent receiving medical care from the Secretary of Defense as active duty for purposes of eligibility for post-9/11 educational assistance*

Section 307(a) would amend section 3301(1)(B) of title 38, U.S.C., by inserting “12301(h)” after “12301(g).”

Section 307(b) would apply the amendment made in Section 307(a) to any active duty service by a member of a reserve compo-

ment covered by section 12301(h) of title 10, U.S.C., beginning on or after 180 days following enactment of this Act.

*Section 308. Work-study allowance*

Section 308 would amend section 3485(a)(4) of title 38, U.S.C., to strike “June 30, 2013” and insert “June 30, 2013, or the period beginning on June 30, 2016 and ending on June 30, 2021”.

*Section 309. Vocational Rehabilitation and Education Action Plan*

Section 309 would require the Secretary of Veterans Affairs, not later than 270 days after enactment, to develop and publish an action plan for improving the chapter 31 vocational rehabilitation services. Such plan shall include each of the following:

(1) Comprehensive analysis and recommendations to remedy workload management challenges at the regional office level, including steps to reduce counselor caseloads, particularly for counselors assisting veterans with TBI and PTSD, and counselors with educational and vocational counseling workloads.

(2) An analysis of why veterans with service-connected disabilities tend to opt to use chapter 33 Post-9/11 GI Bill benefits rather than enroll in chapter 31 vocational rehabilitation programs, including an analysis of barriers to timely enrollment in chapter 31 programs and barriers to a veteran enrolling in the program of his or her choice.

(3) Recommendations and an implementation plan to encourage more Post-9/11 veterans with service-connected disabilities to participate in chapter 31 vocational rehabilitation programs;

(4) A national staff training program for vocational rehabilitation counselors that includes:

(A) Training to help counselors understand the profound disorientation that many service-connected disabled veterans experience due to their injuries;

(B) Training to help counselors partner with veterans on individual rehabilitation plans; and (C) Training on PTSD and other mental health conditions and on moderate to severe TBI, to improve the counselors’ ability to help affected veterans. This training shall include information on the broad spectrum of such conditions and their effect on an individual’s abilities and functional limitations.

*Section 310. Reduction in redundancy and inefficiencies in vocational rehabilitation claims processing.*

Section 310(a) would require the Secretary to reduce redundancy and inefficiencies in the processing of VR&E claims, and would authorize additional funding for the Secretary to improve IT programs that process claims for rehabilitation programs under chapter 31 of title 38, U.S.C. The Section would require that all payments made on behalf of participants in VR&E be completed in one corporate IT solution. Additionally, this Section would require that the IT enhancements support a more accurate accounting of services and outcomes for VR&E participants.

Section 310(b) would authorize \$10 million to be appropriated in FY 2016 to fund the enhancements that would be required by Section 310(a).

Section 310(c) would require VA to submit a report to Congress on the changes made by section 310(a) within 180 days of the enactment of this Section.

TITLE IV—ADMINISTRATION OF EDUCATIONAL ASSISTANCE

*Section 401. Centralized reporting of veteran enrollment by certain groups, districts, and consortiums of educational institutions*

Section 401(a) would amend section 3684(a) of title 38, U.S.C., by permitting a group, district, or consortium of separately accredited educational institutions located in a state to centralize the reporting of statutorily required G.I. Bill enrollment information.

Section 401(b) would require that section 401(a) apply to reports submitted on or after enactment of this section.

*Section 402. Provision of information regarding veteran entitlement to educational assistance*

Section 402(a) would amend subchapter II of chapter 36 of title 38, U.S.C., by adding a new section, 3699, which would require VA to provide to G.I. Bill eligible schools access a secure IT system that would allow the school to view students' remaining entitlement for educational assistance.

Section 402(b) would make a clerical amendment to the table of sections to include this new section 3699.

*Section 403. Role of State approving agencies*

Section 403(a) would amend 3672(b)(2)(A) of title 38, U.S.C., to stipulate that an SAA will make the determination if a public school's program of education meets the criteria to be "deemed approved" for educational assistance under section 3672 of title 38, U.S.C.

Section 403(b) would amend section 3675 of title 38, U.S.C., to allow the SAAs to be jointly responsible with VA (when acting as the SAA) for approving courses of education that are not already approved by section 3672 of title 38, U.S.C.

*Section 404. Criteria used to approve courses*

Section 404(a) would amend section 3676(c)(14) of title 38, U.S.C., to ensure that any "reasonable criteria" used by the SAAs to approve or deny approval of non-accredited programs of education treat public, private, and proprietary for-profit schools equally. This decision would be made by VA, in consultation with the SAA, pursuant to regulations.

Section 404(b) would amend section 3675(b)(3) of title 38, U.S.C., to ensure the standard set in section 404(a) applies to accredited courses as well.

Section 404(c) stipulates that the application of this section would apply to criteria developed on or after January 1, 2013, and for any criteria applied by the SAAs going forward after October 1, 2015.

*Section 405. Compliance surveys*

Section 405(a) would amend section 3693 of title 38, U.S.C., to require that educational institutions with at least twenty G.I. Bill participants receive a compliance survey no less than every two

years. Under this Section, this survey would ensure that the school is in compliance with all rules and regulations related to G.I. Bill benefits. Additionally, VA would be required to assign no less than one education compliance specialist to work on compliance surveys for every forty they intend to complete in one year. VA would be required to work with the SAAs to annually set up the parameters of the survey and ensure the SAA has a list of which schools they are expected to complete compliance surveys at each year.

Section 405(b) would make various conforming amendments to section 3693 of title 38, U.S.C.

*Section 406. Survey of individuals using their entitlement to educational assistance under the educational assistance programs administered by the Secretary of Veterans Affairs*

Section 406(a) would require that within 270 days of enactment, VA shall enter into an agreement with a non-government entity to conduct a survey of G.I. Bill participants. The contract would require that the third party non-government entity provide a copy of the survey to Congress 30 days before the survey begins, that the survey be completed within 180 days after entering the contract, and that the survey shall be conducted by electronic means or any other means the third party deems appropriate.

Section 406(b) would require that the following topics be included in the survey required by section 406(a): basic demographic information of the participants, including military specialty and level of education; the opinion of the participants on TAP; the resources the participants used to choose a school; the participants' educational goals when they enrolled in their education or training program; the participants' experience with processing their claims at VA; the participants' experience with the school certifying officials at their schools; any extra service or benefit provided by the school to the participants; if the participants had completed their program at the time of survey; if the participants participated in the program on a full or part-time basis; if the program led to employment for the participants; if the participants were eligible for Vocational Rehabilitation and Employment benefits under chapter 31 of title 38, U.S.C.; any issues that prevented the participants from completing their programs of education; if the participants were using their own benefits for the program of education or if these benefits were transferred to them; and any other matters the Secretary determines appropriate.

Section 406(c) would require that no later than ninety days following the completion of the survey, VA submit to the House and Senate Committees on Veterans' Affairs an unedited version of the results of the survey and a report that identifies any recommendations of the Secretary related to the results of the survey.

*Section 407. Improvement of information technology of the Veterans Benefit Administration of the Department of Veterans Affairs*

Section 407(a) would require the Secretary of Veterans Affairs, to the maximum extent possible, to make changes to IT systems at VA to ensure that all original and supplemental claims for Post-9/11 G.I. Bill benefits are processed electronically using rules based processing and require little to no human intervention.

Section 407(b) would require VA to submit a plan to Congress within 180 days of enactment on the changes made pursuant to section 407(a).

Section 407(c) would require that, no later than one year after the date of enactment, VA submit a report to Congress on the implementation of the changes and improvements made under section 407(a) and 407(b).

Section 407(d) would authorize appropriations in the amount of \$30,000,000 to carry out this section during FY 2016 and FY 2017.

*Section 408. Technical Amendment relating to In-State tuition rate for individuals to whom entitlement is transferred under All Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance*

Section 408(a) would provide a technical amendment for section 3679(c)(2)(B) of title 38, U.S.C., to clarify that covered individuals include dependents of active duty servicemembers.

Section 408(b) would stipulate that section 408(a) apply to a course, semester, or term that begins on or after July 1, 2016.

TITLE V—OTHER MATTERS

*Section 501. Amount of loan guaranteed Under Home Loan Program of Department of Veterans Affairs*

Section 501(a) would amend section 3703(a)(1) of title 38, U.S.C., to eliminate a requirement that ties the current loan limit for VA backed home loans to the Freddie Mac conforming loan limit.

Section 501(b) would require that the changes that would be made in section 501(a) apply to loans made on or after a date that is 30 days after enactment of this section.

*Section 502. Longitudinal study on job counseling, training, and placement service for veterans*

Section 502(a) would amend chapter 41 of title 38, U.S.C., by adding a new section 4415:

Sec. 4415(a) would require VA to enter into a contract with a non-governmental entity to conduct a five year longitudinal study of veteran employment programs under chapter 41 of title 38, U.S.C. The study would include veterans who have received “intensive services” under chapter 41, of title 38, U.S.C.; veterans who have not received “intensive services” but did receive other services authorized by chapter 41 of title 38, U.S.C.; and veterans who did not seek or receive any services under this chapter.

The study would be required to include the following information on participants: (1) the average number of months the participant spent on active duty; (2) the disability ratings of participants; (3) any unemployment benefits received by participants; (4) the average number of months the participants were employed during the year covered by the report; (5) the average annual starting and ending salary of participants who were employed during the year covered by the report; (6) the average annual income of participants; (7) the average total household income of participants for the year covered by the report; (8) the percentage of participants that own their principle residences; (9) the employment status of the participant; (10) in the case of participants who received serv-

ices under chapter 41 of title 38, U.S.C., whether the participant believes the services helped them become employed; (10) in the case of participants who believe the services provided to them under chapter 41 of title 38, U.S.C., did help them become employed, whether they retained their position of employment for one year or longer, and whether they believe the services helped them secure a higher wage; (11) the conditions under which the participants were discharged or released from the Armed Services; (12) whether the participants have used any educational assistance under title 38, U.S.C., to which they are entitled; (13) if the participants participated in a rehabilitation program under chapter 31 of title 38, U.S.C.; (14) demographic information on the participants; and (15) any other information the Secretary deems appropriate.

Sec. 4415(b) would require that, no later than July 1 of each year covered by the study, the Secretary shall submit a report to the House and Senate Committees on Veterans' Affairs on the outcomes of the longitudinal study required by section 502(a).

Section 502(b) would make a clerical amendment to the table of sections to include this new section 4115.

*Section 503. Limitations on subcontracts under contracts with small business concerns owned and controlled by veterans*

Section 503(a) would amend section 8127 of title 38, U.S.C., by applying requirements under section 46 of the Small Business Act to veteran-owned small businesses, including reference to the term "similarly situated entity" to include a subcontractor to veteran-owned small business. Before awarding a contract that is counted for meeting relevant veteran-owned small business goals, the Secretary of Veterans Affairs would be required to obtain from the offeror a certification that the offeror will comply with this Section, specifying the exact performance requirements and acknowledging that the certification is subject to section 1001 of title, 18, U.S.C. Further, if the Secretary of Veterans Affairs determines that a small business did not operate in good faith with respect to these requirements that small business will be subject to applicable penalties. This Section would also require the VA Director of Small and Disadvantaged Business Utilization and Chief Acquisition Officer to implement a process to monitor compliance with these provisions and would require the Chief Acquisition Officer to refer any violations to the VA OIG. Finally, on November 30 of each year, the Inspector General would submit to the House and Senate Committees on Veterans' Affairs a report for the previous fiscal year regarding the number of referred violations and the disposition of each.

Section 503(b) would make this Section applicable to contracts entered into after the date of enactment.

*Section 504. Procedures for provision of certain information to state veterans agencies to facilitate the furnishing of assistance and benefits to veterans*

Section 504(a) would require the Secretary to develop procedures to share with State veterans' agencies, in an electronic data format, certain information to facilitate the furnishing of assistance and benefits to veterans.

Section 504(b) would require the Secretary to provide to State veterans agencies, the following information as would be required by section 504(a): (1) military service and separation data; (2) a personal email address; (3) a personal telephone number; and (4) a mailing address.

Section 504(c) would allow a veteran to elect not to have their information shared with State veterans agencies under section 504(a).

Section 504(d) would require the Secretary to ensure that any information shared under section 504(a) is only shared with State veterans agencies with government veterans service officers for the administration and delivery of assistance and benefits as specified by the Secretary.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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 italics, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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 italics, and existing law in which no change is proposed is shown in roman):

**TITLE 38, UNITED STATES CODE**

PART I. GENERAL PROVISIONS

|                   |   |            |
|-------------------|---|------------|
| Chapter           |   | Sec.       |
| <b>1. General</b> |   | <b>101</b> |
| *                 | * | *          |

PART V. BOARDS, ADMINISTRATIONS, AND SERVICES

|   |   |             |
|---|---|-------------|
| *   | * | *           |
| <b>80. <i>Veterans Economic Opportunity and Transition Administration</i></b> |   | <b>8001</b> |
| *   | * | *           |

**PART I—GENERAL PROVISIONS**

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**CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS**

|  |   |
|--|---|
| Sec.   |   |
| 301. Department.   |   |
| *  | * |
| <i>306A. Under Secretary for Veterans Economic Opportunity and Transition.</i> |   |
| *  | * |

**§ 306. Under Secretary for Benefits**

(a) There is in the Department an Under Secretary for Benefits, who is appointed by the President, by and with the advice and consent of the Senate. The Under Secretary for Benefits shall be appointed without regard to political affiliation or activity and solely on the basis of demonstrated ability in—

- (1) fiscal management; and
- (2) the administration of programs within the Veterans Benefits Administration or programs of similar content and scope.

(b) The Under Secretary for Benefits is the head of, and is directly responsible to the Secretary for the operations of, the Veterans Benefits Administration.

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

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

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

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

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

【(D)】 (C) The Deputy Secretary of Veterans Affairs.

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

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

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

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

**§ 306A. Under Secretary for Veterans Economic Opportunity and Transition**

(a) *UNDER SECRETARY.*—There is in the Department an Under Secretary for Veterans Economic Opportunity and Transition, who is appointed by the President, by and with the advice and consent of the Senate. The Under Secretary for Veterans Economic Opportunity and Transition shall be appointed without regard to political

affiliation or activity and solely on the basis of demonstrated ability in—

(1) information technology; and

(2) the administration of programs within the Veterans Economic Opportunity and Transition Administration or programs of similar content and scope.

(b) *RESPONSIBILITIES.*—The Under Secretary for Veterans Economic Opportunity and Transition is the head of, and is directly responsible to the Secretary for the operations of, the Veterans Economic Opportunity and Transition Administration.

(c) *VACANCIES.*—(1) Whenever a vacancy in the position of Under Secretary for Veterans Economic Opportunity and Transition occurs or is anticipated, the Secretary shall establish a commission to recommend individuals to the President for appointment to the position.

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

(A) Three persons representing education and training, vocational rehabilitation, employment, real estate, mortgage finance and related industries, and survivor benefits activities affected by the Veterans Economic Opportunity and Transition Administration.

(B) Two persons representing veterans served by the Veterans Economic Opportunity and Transition Administration.

(C) Two persons who have experience in the management of private sector benefits programs of similar content and scope to the economic opportunity and transition programs of the Department.

(D) The Deputy Secretary of Veterans Affairs.

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

(F) One person who has held the position of Under Secretary for Veterans Economic Opportunity and Transition, if the Secretary determines that it is desirable for such person to be a member of the commission.

(3) A commission established under this subsection shall recommend at least three individuals for appointment to the position of Under Secretary for Veterans Economic Opportunity and Transition. The commission shall submit all recommendations to the Secretary. The Secretary shall forward the recommendations to the President and the Committees on Veterans' Affairs of the Senate and House of Representatives with any comments the Secretary considers appropriate. Thereafter, the President may request the commission to recommend additional individuals for appointment.

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

(d) *QUALIFICATIONS OF RECOMMENDED INDIVIDUALS.*—Each individual recommended to the President by the commission for appointment to the position of Under Secretary for Veterans Economic Opportunity and Transition shall be an individual who has held a senior level position in the private sector with responsibilities relating to at least one of the following:

(1) Education policy.

- (2) *Vocational rehabilitation.*
- (3) *Employment.*
- (4) *Job placement.*
- (5) *Home loan finance.*
- (6) *Small business development.*

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### § 317. Center for Minority Veterans

(a) There is in the Department a Center for Minority Veterans. There is at the head of the Center a Director.

(b) The Director shall be a career or noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

(d) The Director shall perform the following functions with respect to veterans who are minorities:

(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are minorities.

(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, *the Under Secretary for Veterans Economic Opportunity and Transition*, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are minorities are eligible.

(3) Promote the use of benefits authorized by this title by veterans who are minorities and the conduct of outreach activities to veterans who are minorities, in conjunction with outreach activities carried out under chapter 77 of this title.

(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are minorities.

(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are minorities and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

(6) Analyze and evaluate complaints made by or on behalf of veterans who are minorities about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are minorities.

(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are minorities.

(9) Publicize the results of medical research which are of particular significance to veterans who are minorities.

(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (42 U.S.C. 289a-2) with respect to the inclusion of minorities in clinical research and on particular health conditions affecting the health of members of minority groups which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are minorities.

(11) Provide support and administrative services to the Advisory Committee on Minority Veterans provided for under section 544 of this title.

(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

(1) detailed information on the budget for the Center;

(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

(g) In this section—

(1) The term "veterans who are minorities" means veterans who are minority group members.

(2) The term "minority group member" has the meaning given such term in section 544(d) of this title.

### **§ 318. Center for Women Veterans**

(a) There is in the Department a Center for Women Veterans. There is at the head of the Center a Director.

(b) The Director shall be a career or noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

(d) The Director shall perform the following functions with respect to veterans who are women:

(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are women.

(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, *the Under Secretary for Veterans Economic Opportunity and Transition*, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are women are eligible.

(3) Promote the use of benefits authorized by this title by veterans who are women and the conduct of outreach activities

to veterans who are women, in conjunction with outreach activities carried out under chapter 77 of this title.

(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are women.

(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are women and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

(6) Analyze and evaluate complaints made by or on behalf of veterans who are women about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are women.

(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are women.

(9) Publicize the results of medical research which are of particular significance to veterans who are women.

(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (42 U.S.C. 289a-2) with respect to the inclusion of women in clinical research and on particular health conditions affecting women's health which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are women.

(11) Provide support and administrative services to the Advisory Committee on Women Veterans established under section 542 of this title.

(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

(1) detailed information on the budget for the Center;

(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

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

**SUBCHAPTER I—GENERAL AUTHORITIES**

\* \* \* \* \*

**§ 516. Equal employment responsibilities**

(a) The Secretary shall provide that the employment discrimination complaint resolution system within the Department be established and administered so as to encourage timely and fair resolution of concerns and complaints. The Secretary shall take steps to ensure that the system is administered in an objective, fair, and effective manner and in a manner that is perceived by employees and other interested parties as being objective, fair, and effective.

(b) The Secretary shall provide—

(1) that employees responsible for counseling functions associated with employment discrimination and for receiving, investigating, and processing complaints of employment discrimination shall be supervised in those functions by, and report to, an Assistant Secretary or a Deputy Assistant Secretary for complaint resolution management; and

(2) that employees performing employment discrimination complaint resolution functions at a facility of the Department shall not be subject to the authority, direction, and control of the Director of the facility with respect to those functions.

(c) The Secretary shall ensure that all employees of the Department receive adequate education and training for the purposes of this section and section 319 of this title.

(d) The Secretary shall, when appropriate, impose disciplinary measures, as authorized by law, in the case of employees of the Department who engage in unlawful employment discrimination, including retaliation against an employee asserting rights under an equal employment opportunity law.

(e)(1)(A) Not later than 45 days after the end of each calendar quarter, the Assistant Secretary for Human Resources and Administration shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report summarizing the employment discrimination complaints filed against the individuals referred to in paragraph (2) during such quarter.

(B) Subparagraph (A) shall apply in the case of complaints filed against individuals on the basis of such individuals' personal conduct and shall not apply in the case of complaints filed solely on the basis of such individuals' positions as officials of the Department.

(2) Paragraph (1) applies to the following officers and employees of the Department:

(A) The Secretary.

(B) The Deputy Secretary of Veterans Affairs.

(C) The Under Secretary for **Health and the Under Secretary for Benefits** *Health, the Under Secretary for Benefits, and the Under Secretary for Veterans Economic Opportunity and Transition*.

(D) Each Assistant Secretary of Veterans Affairs and each Deputy Assistant Secretary of Veterans Affairs.

(E) The Under Secretary of Veterans Affairs for Memorial Affairs.

(F) The General Counsel of the Department.

(G) The Chairman of the Board of Veterans' Appeals.

(H) The Chairman of the Board of Contract Appeals of the Department.

(I) The director and the chief of staff of each medical center of the Department.

(J) The director of each Veterans Integrated Services Network.

(K) The director of each regional office of the Department.

(L) Each program director of the Central Office of the Department.

(3) Each report under this subsection—

(A) may not disclose information which identifies the individuals filing, or the individuals who are the subject of, the complaints concerned or the facilities at which the discrimination identified in such complaints is alleged to have occurred;

(B) shall summarize such complaints by type and by equal employment opportunity field office area in which filed; and

(C) shall include copies of such complaints, with the information described in subparagraph (A) redacted.

(4) Not later than April 1 each year, the Assistant Secretary shall submit to the committees referred to in paragraph (1)(A) a report on the complaints covered by paragraph (1) during the preceding year, including the number of such complaints filed during that year and the status and resolution of the investigation of such complaints.

(f) The Secretary shall ensure that an employee of the Department who seeks counseling relating to employment discrimination may elect to receive such counseling from an employee of the Department who carries out equal employment opportunity counseling functions on a full-time basis rather than from an employee of the Department who carries out such functions on a part-time basis.

(g) The number of employees of the Department whose duties include equal employment opportunity counseling functions as well as other, unrelated functions may not exceed 40 full-time equivalent employees. Any such employee may be assigned equal employment opportunity counseling functions only at Department facilities in remote geographic locations (as determined by the Secretary). The Secretary may waive the limitation in the preceding sentence in specific cases.

(h) The provisions of this section shall be implemented in a manner consistent with procedures applicable under regulations prescribed by the Equal Employment Opportunity Commission.

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### SUBCHAPTER III—ADVISORY COMMITTEES

#### § 541. Advisory Committee on Former Prisoners of War

(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the "Committee").

(2)(A) The members of the Committee shall be appointed by the Secretary from the general public and shall include—

(i) appropriate representatives of veterans who are former prisoners of war;

(ii) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

(iii) appropriate representatives of disabled veterans.

(B) The Committee shall also include, as ex officio members, the Under Secretary for [Health and the Under Secretary for Benefits] *Health, the Under Secretary for Benefits, and the Under Secretary for Veterans Economic Opportunity and Transition*, or their designees.

(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that the term of service of any such member may not exceed three years.

(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

(c)(1) Not later than July 1 of each odd-numbered year through 2009, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are former prisoners of war. Each such report shall include—

(A) an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation;

(B) a review of the programs and activities of the Department designed to meet such needs; and

(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers to be appropriate.

(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted to the Congress pursuant to that section.

#### **§ 542. Advisory Committee on Women Veterans**

(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Women Veterans (hereinafter in this section referred to as “the Committee”).

(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

(i) representatives of women veterans;

(ii) individuals who are recognized authorities in fields pertinent to the needs of women veterans, including the gender-specific health-care needs of women;

(iii) representatives of both female and male veterans with service-connected disabilities, including at least one female veteran with a service-connected disability and at least one male veteran with a service-connected disability; and

(iv) women veterans who are recently separated from service in the Armed Forces.

(B) The Committee shall include, as ex officio members—

【(i) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);】

【(ii) (i) the Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense after consultation with the Defense Advisory Committee on Women in the Services); and

【(iii) (i) the Under Secretary for 【Health and the Under Secretary for Benefits】 *Health, the Under Secretary for Benefits, and the Under Secretary for Veterans Economic Opportunity and Transition*, or their designees.

(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for women veterans, reports and studies pertaining to women veterans and the needs of women veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department, including the Center for Women Veterans.

(c)(1) Not later than July 1 of each even-numbered year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to women veterans. Each such report shall include—

(A) an assessment of the needs of women veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

(B) a review of the programs and activities of the Department designed to meet such needs; and

(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

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

(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Veterans (hereinafter in this section referred to as “the Committee”).

(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

(i) representatives of veterans who are minority group members;

(ii) individuals who are recognized authorities in fields pertinent to the needs of veterans who are minority group members;

(iii) veterans who are minority group members and who have experience in a military theater of operations;

(iv) veterans who are minority group members and who do not have such experience; and

(v) women veterans who are minority group members and are recently separated from service in the Armed Forces.

(B) The Committee shall include, as ex officio members, the following:

[(i) The Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans’ Employment).]

[(ii) (i) The Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense).

[(iii) (ii) The Secretary of the Interior (or a representative of the Secretary of the Interior designated by the Secretary of the Interior).

[(iv) (iii) The Secretary of Commerce (or a representative of the Secretary of Commerce designated by the Secretary of Commerce).

[(v) (iv) The Secretary of Health and Human Services (or a representative of the Secretary of Health and Human Services designated by the Secretary of Health and Human Services).

[(vi) (v) The Under Secretary for [Health and the Under Secretary for Benefits] *Health, the Under Secretary for Benefits, and the Under Secretary for Veterans Economic Opportunity and Transition*, or their designees.

(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member

may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

(4) The Committee shall meet as often as the Secretary considers necessary or appropriate, but not less often than twice each fiscal year.

(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for veterans who are minority group members, reports and studies pertaining to such veterans and the needs of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department, including the Center for Minority Veterans.

(c)(1) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are minority group members. Each such report shall include—

(A) an assessment of the needs of veterans who are minority group members with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

(B) a review of the programs and activities of the Department designed to meet such needs; and

(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

(d) In this section, the term “minority group member” means an individual who is—

(1) Asian American;

(2) Black;

(3) Hispanic;

(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or

(5) Pacific-Islander American.

(e) The Committee shall cease to exist December 31, 2015.

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**CHAPTER 7—EMPLOYEES**

\* \* \* \* \*

**§ 709. Employment restrictions**

(a)(1) Notwithstanding section 3134(d) of title 5, the number of Senior Executive Service positions in the Department which are filled by noncareer appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

(2) For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

(b) The number of positions in the Department which may be excepted from the competitive service, on a temporary or permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

(c)(1) Political affiliation or activity may not be taken into account in connection with the appointment of any person to any position in or to perform any service for the Department or in the assignment or advancement of any employee in the Department.

(2) Paragraph (1) shall not apply—

(A) to the appointment of any person by the President under this title, other than the appointment of the Under Secretary for Health, the Under Secretary for Benefits, *the Under Secretary for Veterans Economic Opportunity and Transition*, and the Inspector General; or

(B) to the appointment of any person to (i) a Senior Executive Service position as a noncareer appointee, or (ii) a position that is excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of the position.

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**PART II—GENERAL BENEFITS**

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

**SUBCHAPTER I—GENERAL**

\* \* \* \* \*

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

(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

(1) Veterans with service-connected disabilities rated 50 percent or greater[.] *and veterans who were awarded the medal*

*of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.*

(2) Veterans with service-connected disabilities rated 30 percent or 40 percent.

(3) Veterans who are former prisoners of war or who were awarded the Purple Heart, [veterans who were awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14,] veterans with service-connected disabilities rated 10 percent or 20 percent, and veterans described in subparagraphs (B) and (C) of section 1710(a)(2) of this title.

(4) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

(5) Veterans not covered by paragraphs (1) through (4) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

(6) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(2) of this title.

(7) Veterans described in section 1710(a)(3) of this title who are eligible for treatment as a low-income family under section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) for the area in which such veterans reside, regardless of whether such veterans are treated as single person families under paragraph (3)(A) of such section 3(b) or as families under paragraph (3)(B) of such section 3(b).

(8) Veterans described in section 1710(a)(3) of this title who are not covered by paragraph (7).

(b) In the design of an enrollment system under subsection (a), the Secretary—

(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

(c)(1) The Secretary may not provide hospital care or medical services to a veteran under paragraph (2) or (3) of section 1710(a) of this title unless the veteran enrolls in the system of patient enrollment established by the Secretary under subsection (a).

(2) The Secretary shall provide hospital care and medical services under section 1710(a)(1) of this title, and under subparagraph (B) of section 1710(a)(2) of this title, for the 12-month period following such veteran's discharge or release from service, to any veteran referred to in such sections for a disability specified in the applicable subparagraph of such section, notwithstanding the failure of the veteran to enroll in the system of patient enrollment referred to in subsection (a) of this section.

\* \* \* \* \*

SUBCHAPTER II—HOSPITAL, NURSING HOME, OR  
DOMICILIARY CARE AND MEDICAL TREATMENT**§ 1710. Eligibility for hospital, nursing home, and domiciliary care**

(a)(1) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services which the Secretary determines to be needed—

(A) to any veteran for a service-connected disability; and

(B) to any veteran who has a service-connected disability rated at 50 percent or more.

(2) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services, and may furnish nursing home care, which the Secretary determines to be needed to any veteran—

(A) who has a compensable service-connected disability rated less than 50 percent or, with respect to nursing home care during any period during which the provisions of section 1710A(a) of this title are in effect, a compensable service-connected disability rated less than 70 percent;

(B) whose discharge or release from active military, naval, or air service was for a disability that was incurred or aggravated in the line of duty;

(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

(D) who is a former prisoner of war, *who was awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14*, or who was awarded the Purple Heart;

(E) who is a veteran of the Mexican border period or of World War I;

(F) who was exposed to a toxic substance, radiation, or other conditions, as provided in subsection (e); or

(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

(3) In the case of a veteran who is not described in paragraphs (1) and (2), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsections (f) and (g), furnish hospital care, medical services, and nursing home care which the Secretary determines to be needed.

(4) The requirement in paragraphs (1) and (2) that the Secretary furnish hospital care and medical services, the requirement in section 1710A(a) of this title that the Secretary provide nursing home care, the requirement in section 1710B of this title that the Secretary provide a program of extended care services, and the requirement in section 1745 of this title to provide nursing home care and prescription medicines to veterans with service-connected disabilities in State homes shall be effective in any fiscal year only to the extent and in the amount provided in advance in appropriations Acts for such purposes.

(5) During any period during which the provisions of section 1710A(a) of this title are not in effect, the Secretary may furnish nursing home care which the Secretary determines is needed to

any veteran described in paragraph (1), with the priority for such care on the same basis as if provided under that paragraph.

(b)(1) The Secretary may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Secretary determines is needed for the purpose of the furnishing of medical services to the veteran.

(2) This subsection applies in the case of the following veterans:

(A) Any veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 1521(d) of this title.

(B) Any veteran who the Secretary determines has no adequate means of support.

(c) While any veteran is receiving hospital care or nursing home care in any Department facility, the Secretary may, within the limits of Department facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which such veteran is hospitalized, if the veteran is willing, and the Secretary finds such services to be reasonably necessary to protect the health of such veteran. The Secretary may furnish dental services and treatment, and related dental appliances, under this subsection for a non-service-connected dental condition or disability of a veteran only (1) to the extent that the Secretary determines that the dental facilities of the Department to be used to furnish such services, treatment, or appliances are not needed to furnish services, treatment, or appliances for dental conditions or disabilities described in section 1712(a) of this title, or (2) if (A) such non-service-connected dental condition or disability is associated with or aggravating a disability for which such veteran is receiving hospital care, or (B) a compelling medical reason or a dental emergency requires furnishing dental services, treatment, or appliances (excluding the furnishing of such services, treatment, or appliances of a routine nature) to such veteran during the period of hospitalization under this section.

(d) In no case may nursing home care be furnished in a hospital not under the direct jurisdiction of the Secretary except as provided in section 1720 of this title.

(e)(1)(A) A Vietnam-era herbicide-exposed veteran is eligible (subject to paragraph (2)) for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

(B) A radiation-exposed veteran is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disease suffered by the veteran that is—

(i) a disease listed in section 1112(c)(2) of this title; or

(ii) any other disease for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards, determines that there is credible evidence of a positive association between occurrence of the disease in humans and exposure to ionizing radiation.

(C) Subject to paragraph (2) of this subsection, a veteran who served on active duty between August 2, 1990, and November 11,

1998, in the Southwest Asia theater of operations during the Persian Gulf War is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such service.

(D) Subject to paragraphs (2) and (3), a veteran who served on active duty in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities (as defined in section 1712A(a)(2)(B) of this title) after November 11, 1998, is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such condition is attributable to such service.

(E) Subject to paragraph (2), a veteran who participated in a test conducted by the Department of Defense Deseret Test Center as part of a program for chemical and biological warfare testing from 1962 through 1973 (including the program designated as "Project Shipboard Hazard and Defense (SHAD)" and related land-based tests) is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such illness is attributable to such testing.

(F) Subject to paragraph (2), a veteran who served on active duty in the Armed Forces at Camp Lejeune, North Carolina, for not fewer than 30 days during the period beginning on August 1, 1953 and ending on December 31, 1987, is eligible for hospital care and medical services under subsection (a)(2)(F) for any of the following illnesses or conditions, notwithstanding that there is insufficient medical evidence to conclude that such illnesses or conditions are attributable to such service:

- (i) Esophageal cancer.
- (ii) Lung cancer.
- (iii) Breast cancer.
- (iv) Bladder cancer.
- (v) Kidney cancer.
- (vi) Leukemia.
- (vii) Multiple myeloma.
- (viii) Myelodysplastic syndromes.
- (ix) Renal toxicity.
- (x) Hepatic steatosis.
- (xi) Female infertility.
- (xii) Miscarriage.
- (xiii) Scleroderma.
- (xiv) Neurobehavioral effects.
- (xv) Non-Hodgkin's lymphoma.

(2)(A) In the case of a veteran described in paragraph (1)(A), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to—

- (i) a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in paragraph (4)(A)(ii); or

(ii) a disease for which the National Academy of Sciences, in a report issued in accordance with section 3 of the Agent Orange Act of 1991, has determined that there is limited or suggestive evidence of the lack of a positive association between occurrence of the disease in humans and exposure to a herbicide agent.

(B) In the case of a veteran described in subparagraph (C), (D), (E), or (F) of paragraph (1), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than the service or testing described in such subparagraph.

(3) In the case of care for a veteran described in paragraph (1)(D), hospital care, medical services, and nursing home care may be provided under or by virtue of subsection (a)(2)(F) only during the following periods:

(A) Except as provided by subparagraph (B), with respect to a veteran described in paragraph (1)(D) who is discharged or released from the active military, naval, or air service after January 27, 2003, the five-year period beginning on the date of such discharge or release.

(B) With respect to a veteran described in paragraph (1)(D) who is discharged or released from the active military, naval, or air service after January 1, 2009, and before January 1, 2011, but did not enroll to receive such hospital care, medical services, or nursing home care pursuant to such paragraph during the five-year period described in subparagraph (A), the one-year period beginning on the date of the enactment of the Clay Hunt Suicide Prevention for American Veterans Act.

(C) With respect to a veteran described in paragraph (1)(D) who is discharged or released from the active military, naval, or air service on or before January 27, 2003, and did not enroll in the patient enrollment system under section 1705 of this title on or before such date, the three-year period beginning on January 27, 2008.

(4) For purposes of this subsection—

(A) The term “Vietnam-era herbicide-exposed veteran” means a veteran (i) who served on active duty in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, and (ii) who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used for military purposes during such period.

(B) The term “radiation-exposed veteran” has the meaning given that term in section 1112(c)(3) of this title.

(5) When the Secretary first provides care for veterans using the authority provided in paragraph (1)(D), the Secretary shall establish a system for collection and analysis of information on the general health status and health care utilization patterns of veterans receiving care under that paragraph. Not later than 18 months after first providing care under such authority, the Secretary shall submit to Congress a report on the experience under that author-

ity. The Secretary shall include in the report any recommendations of the Secretary for extension of that authority.

(f)(1) The Secretary may not furnish hospital care or nursing home care (except if such care constitutes hospice care) under this section to a veteran who is eligible for such care under subsection (a)(3) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) or (4) of this subsection.

(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

(A) the lesser of—

(i) the cost of furnishing such care, as determined by the Secretary; or

(ii) the amount determined under paragraph (3) of this subsection; and

(B) before September 30, 2015, an amount equal to \$10 for every day the veteran receives hospital care and \$5 for every day the veteran receives nursing home care.

(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(ii) of this subsection is—

(i) the amount of the inpatient Medicare deductible, plus (ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(ii) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such nursing home care until—

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made, whichever occurs first.

(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph

(2) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made, whichever occurs first.

(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such hospital care until—

(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

(ii) the end of the 365-day period applicable to the nursing home care for which payment was made, whichever occurs first.

(E) A veteran may not be required to make a payment under this subsection for hospital care or nursing home care furnished under this section during any 90-day period in which the veteran is furnished medical services under paragraph (3) of subsection (a) to the extent that such payment would cause the total amount paid by the veteran under this subsection for hospital care and nursing home care furnished during that period and under subsection (g) for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such period.

(F) A veteran may not be required to make a payment under this subsection or subsection (g) for any days of care in excess of 360 days of care during any 365-calendar-day period.

(4) In the case of a veteran covered by this subsection who is also described by section 1705(a)(7) of this title, the amount for which the veteran shall be liable to the United States for hospital care under this subsection shall be an amount equal to 20 percent of the total amount for which the veteran would otherwise be liable for such care under subparagraphs (2)(B) and (3)(A) but for this paragraph.

(5) For the purposes of this subsection, the term “inpatient Medicare deductible” means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.

(g)(1) The Secretary may not furnish medical services (except if such care constitutes hospice care) under subsection (a) of this section (including home health services under section 1717 of this

title) to a veteran who is eligible for hospital care under this chapter by reason of subsection (a)(3) of this section unless the veteran agrees to pay to the United States in the case of each outpatient visit the applicable amount or amounts established by the Secretary by regulation.

(2) A veteran who is furnished medical services under subsection (a) of this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount which the Secretary shall establish by regulation.

(3) This subsection does not apply with respect to home health services under section 1717 of this title to the extent that such services are for improvements and structural alterations.

(h) Nothing in this section requires the Secretary to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.

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**§ 1710B. Extended care services**

(a) The Secretary (subject to section 1710(a)(4) of this title and subsection (c) of this section) shall operate and maintain a program to provide extended care services to eligible veterans in accordance with this section. Such services shall include the following:

- (1) Geriatric evaluation.
- (2) Nursing home care (A) in facilities operated by the Secretary, and (B) in community-based facilities through contracts under section 1720 of this title.
- (3) Domiciliary services under section 1710(b) of this title.
- (4) Adult day health care under section 1720(f) of this title.
- (5) Such other noninstitutional alternatives to nursing home care as the Secretary may furnish as medical services under section 1701(10) of this title.
- (6) Respite care under section 1720B of this title.

(b) The Secretary shall ensure that the staffing and level of extended care services provided by the Secretary nationally in facilities of the Department during any fiscal year is not less than the staffing and level of such services provided nationally in facilities of the Department during fiscal year 1998.

(c)(1) Except as provided in paragraph (2), the Secretary may not furnish extended care services for a non-service-connected disability other than in the case of a veteran who has a compensable service-connected disability unless the veteran agrees to pay to the United States a copayment (determined in accordance with subsection (d)) for any period of such services in a year after the first 21 days of such services provided that veteran in that year.

- (2) Paragraph (1) shall not apply—
  - (A) to a veteran whose annual income (determined under section 1503 of this title) is less than the amount in effect under section 1521(b) of this title;
  - (B) to a veteran being furnished hospice care under this section; **[or]**

(C) with respect to an episode of extended care services that a veteran is being furnished by the Department on November 30, 1999~~...~~; or

(D) to a veteran who was awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.

(d)(1) A veteran who is furnished extended care services under this chapter and who is required under subsection (c) to pay an amount to the United States in order to be furnished such services shall be liable to the United States for that amount.

(2) In implementing subsection (c), the Secretary shall develop a methodology for establishing the amount of the copayment for which a veteran described in subsection (c) is liable. That methodology shall provide for—

(A) establishing a maximum monthly copayment (based on all income and assets of the veteran and the spouse of such veteran);

(B) protecting the spouse of a veteran from financial hardship by not counting all of the income and assets of the veteran and spouse (in the case of a spouse who resides in the community) as available for determining the copayment obligation; and

(C) allowing the veteran to retain a monthly personal allowance.

(e)(1) There is established in the Treasury of the United States a revolving fund known as the Department of Veterans Affairs Extended Care Fund (hereinafter in this section referred to as the “fund”). Amounts in the fund shall be available, without fiscal year limitation and without further appropriation, exclusively for the purpose of providing extended care services under subsection (a).

(2) All amounts received by the Department under this section shall be deposited in or credited to the fund.

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SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

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**§ 1722A. Copayment for medications**

(a)(1) Subject to paragraph (2), the Secretary shall require a veteran to pay the United States \$2 for each 30-day supply of medication furnished such veteran under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition. If the amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

(2) The Secretary may not require a veteran to pay an amount in excess of the cost to the Secretary for medication described in paragraph (1).

(3) Paragraph (1) does not apply—

(A) to a veteran with a service-connected disability rated 50 percent or more;

(B) to a veteran who is a former prisoner of war; **[or]**

(C) to a veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual

rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title[.]; or

(D) to a veteran who was awarded the medal of honor under section 3741, 6241, or 8741 of title 10 or section 491 of title 14.

(b) The Secretary, pursuant to regulations which the Secretary shall prescribe, may—

(1) increase the copayment amount in effect under subsection (a); and

(2) establish a maximum monthly and a maximum annual pharmaceutical copayment amount under subsection (a) for veterans who have multiple outpatient prescriptions.

(c) Amounts collected under this section shall be deposited in the Department of Veterans Affairs Medical Care Collections Fund.

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SUBCHAPTER VIII—HEALTH CARE OF PERSONS OTHER THAN VETERANS

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§ 1786. Care for newborn children of women veterans receiving maternity care

(a) IN GENERAL.—The Secretary may furnish health care services described in subsection (b) to a newborn child of a woman veteran who is receiving maternity care furnished by the Department for not more than [seven days] 42 days after the birth of the child if the veteran delivered the child in—

- (1) a facility of the Department; or
(2) another facility pursuant to a Department contract for services relating to such delivery.

(b) COVERED HEALTH CARE SERVICES.—Health care services described in this subsection are all post-delivery care services, including routine care services, that a newborn child requires.

(c) ANNUAL REPORT.—Not later than October 31, 2016, and each year thereafter through 2020, the Secretary shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the health care services provided under subsection (a) during the fiscal year preceding the date of the report, including the number of newborn children who received such services during such fiscal year.

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CHAPTER 20—BENEFITS FOR HOMELESS VETERANS

SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

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§ 2003. Staffing requirements

(a) VBA STAFFING AT REGIONAL OFFICES.—The Secretary shall ensure that there is at least one full-time employee assigned to oversee and coordinate homeless veterans programs at each of the 20 Veterans Benefits Administration regional offices that the Sec-

retary determines have the largest homeless veteran populations within the regions of the Administration. The programs covered by such oversight and coordination include the following:

- (1) Housing programs administered by the Secretary under this title or any other provision of law.
- (2) Compensation, pension, vocational rehabilitation, and education benefits programs administered by the Secretary under this title or any other provision of law.
- (3) The housing program for veterans supported by the Department of Housing and Urban Development.
- (4) The homeless veterans reintegration program [of the Department of Labor] under section 2021 of this title.
- (5) The programs under section 2033 of this title.
- (6) The assessments required by section 2034 of this title.
- (7) Such other programs relating to homeless veterans as may be specified by the Secretary.

(b) VHA CASE MANAGERS.—The Secretary shall ensure that the number of case managers in the Veterans Health Administration is sufficient to assure that every veteran who is provided a housing voucher through section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is assigned to, and is seen as needed by, a case manager.

## SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

### § 2011. Grants

(a) AUTHORITY TO MAKE GRANTS.—Subject to the availability of appropriations provided for such purpose, the Secretary shall make grants to assist eligible entities in establishing programs to furnish, and expanding or modifying existing programs for furnishing, the following to homeless veterans:

- (1) Outreach.
- (2) Rehabilitative services.
- (3) Vocational counseling and training.
- (4) Transitional housing assistance.

(b) CRITERIA FOR GRANTS.—The Secretary shall establish criteria and requirements for grants under this section, including criteria for entities eligible to receive grants, and shall publish such criteria and requirements in the Federal Register. The criteria established under this subsection shall include the following:

- (1) Specification as to the kinds of projects for which grants are available, which shall include—
  - (A) new construction of facilities, expansion, remodeling, or alteration of existing facilities, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans; and
  - (B) procurement of vans for use in outreach to and transportation for homeless veterans for purposes of a program referred to in subsection (a).
- (2) Specification as to the number of projects for which grants are available.
- (3) Criteria for staffing for the provision of services under a project for which grants are made.
- (4) Provisions to ensure that grants under this section—

- (A) shall not result in duplication of ongoing services; and
  - (B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and other locations.
- (5) Provisions to ensure that an entity receiving a grant shall meet fire and safety requirements established by the Secretary, which shall include—
- (A) such State and local requirements that may apply; and
  - (B) fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.
- (6) Specification as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of a project for which a grant is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).
- (c) **FUNDING LIMITATIONS.**—(1) A grant under this section may not be used to support operational costs.
- (2) The amount of a grant under this section may not exceed 65 percent of the estimated cost of the project concerned.
- (3)(A) The Secretary may not deny an application from an entity that seeks a grant under this section to carry out a project described in subsection (b)(1)(A) solely on the basis that the entity proposes to use funding from other private or public sources, if the entity demonstrates that a private nonprofit organization will provide oversight and site control for the project.
- (B) In this paragraph, the term “private nonprofit organization” means the following:
- (i) An incorporated private institution, organization, or foundation—
    - (I) that has received, or has temporary clearance to receive, tax-exempt status under paragraph (2), (3), or (19) of section 501(c) of the Internal Revenue Code of 1986;
    - (II) for which no part of the net earnings of the institution, organization, or foundation inures to the benefit of any member, founder, or contributor of the institution, organization, or foundation; and
    - (III) that the Secretary determines is financially responsible.
  - (ii) A for-profit limited partnership or limited liability company, the sole general partner or manager of which is an organization that is described by subclauses (I) through (III) of clause (i).
  - (iii) A corporation wholly owned and controlled by an organization that is described by subclauses (I) through (III) of clause (i).
- (d) **ELIGIBLE ENTITIES.**—The Secretary may make a grant under this section to an entity applying for such a grant only if the applicant for the grant—
- (1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section;

(2) demonstrates that adequate financial support will be available to carry out the project for which the grant is sought consistent with the plans, specifications, and schedule submitted by the applicant; and

(3) agrees to meet the applicable criteria and requirements established under subsections (b) and (g) and has, as determined by the Secretary, the capacity to meet such criteria and requirements.

(e) APPLICATION REQUIREMENT.—An entity seeking a grant for a project under this section shall submit to the Secretary an application for the grant. The application shall set forth the following:

(1) The amount of the grant sought for the project.

(2) A description of the site for the project.

(3) Plans, specifications, and the schedule for implementation of the project in accordance with criteria and requirements prescribed by the Secretary under subsection (b).

(4) Reasonable assurance that upon completion of the work for which the grant is sought, the project will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided under the project will be provided to individuals who are not veterans.

(f) PROGRAM REQUIREMENTS.—The Secretary may not make a grant for a project to an applicant under this section unless the applicant in the application for the grant agrees to each of the following requirements:

(1) To provide the services for which the grant is made at locations accessible to homeless veterans.

(2) To maintain referral networks for homeless veterans for establishing eligibility for assistance and obtaining services, under available entitlement and assistance programs, and to aid such veterans in establishing eligibility for and obtaining such services.

(3) To ensure the confidentiality of records maintained on homeless veterans receiving services through the project.

(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 2012 of this title.

(5) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

(g) SERVICE CENTER REQUIREMENTS.—In addition to criteria and requirements established under subsection (b), in the case of an application for a grant under this section for a service center for homeless veterans, the Secretary shall require each of the following:

(1) That such center provide services to homeless veterans during such hours as the Secretary may specify and be open to such veterans on an as-needed, unscheduled basis.

(2) That space at such center be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, [the Department of Labor,] and other appropriate agen-

cies and organizations in assisting homeless veterans served by such center.

(3) That such center be equipped and staffed to provide or to assist in providing health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary.

(4) That such center be equipped and staffed to provide, or to assist in providing, job training, counseling, and placement services (including job readiness and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this paragraph.

(h) RECOVERY OF UNUSED GRANT FUNDS.—(1) If a grant recipient under this section does not establish a program in accordance with this section or ceases to furnish services under such a program for which the grant was made, the United States shall be entitled to recover from such recipient the total of all unused grant amounts made under this section to such recipient in connection with such program.

(2) Any amount recovered by the United States under paragraph (1) may be obligated by the Secretary without fiscal year limitation to carry out provisions of this subchapter.

(3) An amount may not be recovered under paragraph (1) as an unused grant amount before the end of the three-year period beginning on the date on which the grant is made.

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### SUBCHAPTER III—TRAINING AND OUTREACH

#### § 2021. Homeless veterans reintegration programs

(a) IN GENERAL.—Subject to the availability of appropriations provided for such purpose, the [Secretary of Labor] *Secretary* shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to provide job training, counseling, and placement services (including job readiness and literacy and skills training) to expedite the reintegration of homeless veterans into the labor force.

(b) REQUIREMENT TO MONITOR EXPENDITURES OF FUNDS.—(1) The [Secretary of Labor] *Secretary* shall collect such information as [that Secretary] *the Secretary* considers appropriate to monitor and evaluate the distribution and expenditure of funds appropriated to carry out this section. The information shall include data with respect to the results or outcomes of the services provided to each homeless veteran under this section.

(2) Information under paragraph (1) shall be furnished in such form and manner as the [Secretary of Labor] *Secretary* may specify.

(c) [ADMINISTRATION THROUGH THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING] *ADMINISTRATION THROUGH DEPUTY UNDER SECRETARY FOR VETERANS' EMPLOYMENT, TRAINING, AND TRANSITION*.—The [Secretary of Labor] *Secretary* shall carry out this section through the [Assistant Secretary of Labor for Veterans' Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition*.

(d) BIENNIAL REPORT TO CONGRESS.—Not less than every two years, the [Secretary of Labor] *Secretary* shall submit to Congress a report on the programs conducted under this section. The [Secretary of Labor] *Secretary* shall include in the report an evaluation of services furnished to veterans under this section and an analysis of the information collected under subsection (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section amounts as follows:

(A) \$50,000,000 for fiscal year 2002.

(B) \$50,000,000 for fiscal year 2003.

(C) \$50,000,000 for fiscal year 2004.

(D) \$50,000,000 for fiscal year 2005.

(E) \$50,000,000 for fiscal year 2006.

(F) \$50,000,000 for each of fiscal years 2007 through 2015.

(2) Funds appropriated to carry out this section shall remain available until expended. Funds obligated in any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.

**§ 2021A. Homeless women veterans and homeless veterans with children reintegration grant program**

(a) GRANTS.—Subject to the availability of appropriations provided for such purpose, the [Secretary of Labor] *Secretary* shall make grants to programs and facilities that the Secretary determines provide dedicated services for homeless women veterans and homeless veterans with children.

(b) USE OF FUNDS.—Grants under this section shall be used to provide job training, counseling, placement services (including job readiness and literacy and skills training) and child care services to expedite the reintegration of homeless women veterans and homeless veterans with children into the labor force.

(c) REQUIREMENT TO MONITOR EXPENDITURES OF FUNDS.—(1) The [Secretary of Labor] *Secretary* shall collect such information as [that Secretary] *the Secretary* considers appropriate to monitor and evaluate the distribution and expenditure of funds appropriated to carry out this section. The information shall include data with respect to the results or outcomes of the services provided to each homeless veteran under this section.

(2) Information under paragraph (1) shall be furnished in such form and manner as the [Secretary of Labor] *Secretary* may specify.

(d) [ADMINISTRATION THROUGH THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING] *ADMINISTRATION THROUGH DEPUTY UNDER SECRETARY FOR VETERANS' EMPLOYMENT, TRAINING, AND TRANSITION*.—The [Secretary of Labor] *Secretary* shall carry out this section through the [Assistant Secretary of Labor for Veterans' Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition*.

(e) BIENNIAL REPORT TO CONGRESS.—The [Secretary of Labor] *Secretary* shall include as part of the report required under section 2021(d) of this title an evaluation of the grant program under this section, which shall include an evaluation of services furnished to veterans under this section and an analysis of the information collected under subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) In addition to any amount authorized to be appropriated to carry out section 2021 of this title, there is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 2011 through 2015.

(2) Funds appropriated to carry out this section shall remain available until expended. Funds obligated in any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.

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**§ 2023. Referral and counseling services: veterans at risk of homelessness who are transitioning from certain institutions**

(a) PROGRAM AUTHORITY.—The Secretary [and the Secretary of Labor (hereinafter in this section referred to as the “Secretaries”)] shall carry out a program of referral and counseling services to eligible veterans with respect to benefits and services available to such veterans under this title and under State law.

(b) LOCATION OF PROGRAM.—The program shall be carried out in at least 12 locations. One location shall be a penal institution under the jurisdiction of the Bureau of Prisons.

(c) SCOPE OF PROGRAM.—(1) To the extent practicable, the program shall provide both referral and counseling services, and in the case of counseling services, shall include counseling with respect to job training and placement (including job readiness), housing, health care, and other benefits to assist the eligible veteran in the transition from institutional living.

(2)(A) To the extent that referral or counseling services are provided at a location under the program, referral services shall be provided in person during such period of time that the [Secretaries] *Secretary* may specify that precedes the date of release or discharge of the eligible veteran, and counseling services shall be furnished after such date.

(B) The [Secretaries] *Secretary* may, as part of the program, furnish to officials of penal institutions outreach information with respect to referral and counseling services for presentation to veterans in the custody of such officials during the 18-month period that precedes such date of release or discharge.

(3) The [Secretaries] *Secretary* may make grants to carry out the referral and counseling services required under the program with entities or organizations that meet such requirements as the [Secretaries] *Secretary* may establish.

(4) In developing the program, the [Secretaries] *Secretary* shall consult with officials of the Bureau of Prisons, officials of penal institutions of States and political subdivisions of States, and such other officials as the [Secretaries] *Secretary* [determine] *determines* appropriate.

(d) DURATION.—The authority of the [Secretaries] *Secretary* to enter into a contract to provide referral and counseling services under the demonstration program shall cease on September 30, 2015.

(e) DEFINITION.—In this section, the term “eligible veteran” means a veteran who—

(1) is a resident of a penal institution or an institution that provides long-term care for mental illness; and

(2) is at risk for homelessness absent referral and counseling services provided under the demonstration program (as determined under guidelines established by the **【Secretaries】** *Secretary*).

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#### SUBCHAPTER VII—OTHER PROVISIONS

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#### **§ 2065. Annual report on assistance to homeless veterans**

(a) ANNUAL REPORT.—Not later than June 15 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department during the calendar year preceding the report under programs of the Department under this chapter and other programs of the Department for the provision of assistance to homeless veterans.

(b) GENERAL CONTENTS OF REPORT.—Each report under subsection (a) shall include the following:

(1) The number of homeless veterans provided assistance under the programs referred to in subsection (a).

(2) The cost to the Department of providing such assistance under those programs.

(3) The Secretary's evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans, including—

(A) residential work-therapy programs;

(B) programs combining outreach, community-based residential treatment, and case-management; and

(C) contract care programs for alcohol and drug-dependence or use disabilities.

(4) The Secretary's evaluation of the effectiveness of programs established by recipients of grants under section 2011 of this title and a description of the experience of those recipients in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans.

(5) Information on the efforts of the Secretary to coordinate the delivery of housing and services to homeless veterans with other Federal departments and agencies, including—

(A) the Department of Defense;

(B) the Department of Health and Human Services;

(C) the Department of Housing and Urban Development;

(D) the Department of Justice;

**【(E) the Department of Labor;】**

**【(F)】** *(E)* the Interagency Council on Homelessness;

**【(G)】** *(F)* the Social Security Administration; and

**【(H)】** *(G)* any other Federal department or agency with which the Secretary coordinates the delivery of housing and services to homeless veterans.

(6) Any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

(c) **HEALTH CARE CONTENTS OF REPORT.**—Each report under subsection (a) shall include, with respect to programs of the Department addressing health care needs of homeless veterans, the following:

- (1) Information about expenditures, costs, and workload under the program of the Department known as the Health Care for Homeless Veterans program (HCHV).
- (2) Information about the veterans contacted through that program.
- (3) Information about program treatment outcomes under that program.
- (4) Information about supported housing programs.
- (5) Information about the Department's grant and per diem provider program under subchapter II of this chapter.
- (6) The findings and conclusions of the assessments of the medical needs of homeless veterans conducted under section 2034(b) of this title.
- (7) Other information the Secretary considers relevant in assessing those programs.

(d) **BENEFITS CONTENT OF REPORT.**—Each report under subsection (a) shall include, with respect to programs and activities of the Veterans Benefits Administration in processing of claims for benefits of homeless veterans during the preceding year, the following:

- (1) Information on costs, expenditures, and workload of Veterans Benefits Administration claims evaluators in processing claims for benefits of homeless veterans.
- (2) Information on the filing of claims for benefits by homeless veterans.
- (3) Information on efforts undertaken to expedite the processing of claims for benefits of homeless veterans.
- (4) Other information that the Secretary considers relevant in assessing the programs and activities.

#### **§ 2066. Advisory Committee on Homeless Veterans**

(a) **ESTABLISHMENT.**—(1) There is established in the Department the Advisory Committee on Homeless Veterans (hereinafter in this section referred to as the "Committee").

(2) The Committee shall consist of not more than 15 members appointed by the Secretary from among the following:

- (A) Veterans service organizations.
- (B) Advocates of homeless veterans and other homeless individuals.
- (C) Community-based providers of services to homeless individuals.
- (D) Previously homeless veterans.
- (E) State veterans affairs officials.
- (F) Experts in the treatment of individuals with mental illness.
- (G) Experts in the treatment of substance use disorders.
- (H) Experts in the development of permanent housing alternatives for lower income populations.
- (I) Experts in vocational rehabilitation.
- (J) Such other organizations or groups as the Secretary considers appropriate.

(3) The Committee shall include, as ex officio members, the following:

【(A) The Secretary of Labor (or a representative of the Secretary selected after consultation with the Assistant Secretary of Labor for Veterans' Employment).】

【(B)】 (A) The Secretary of Defense (or a representative of the Secretary).

【(C)】 (B) The Secretary of Health and Human Services (or a representative of the Secretary).

【(D)】 (C) The Secretary of Housing and Urban Development (or a representative of the Secretary).

【(E)】 (D) The Executive Director of the Interagency Council on Homelessness (or a representative of the Executive Director).

【(F)】 (E) The Under Secretary for Health (or a representative of the Under Secretary after consultation with the Director of the Office of Homeless Veterans Programs).

【(G)】 (F) The Under Secretary for Benefits (or a representative of the Under Secretary after consultation with the Director of the Office of Homeless Veterans Programs).

(4)(A) The Secretary shall determine the terms of service and allowances of the members of the Committee, except that a term of service may not exceed three years. The Secretary may reappoint any member for additional terms of service.

(B) Members of the Committee shall serve without pay. Members may receive travel expenses, including per diem in lieu of subsistence for travel in connection with their duties as members of the Committee.

(b) DUTIES.—(1) The Secretary shall consult with and seek the advice of the Committee on a regular basis with respect to the provision by the Department of benefits and services to homeless veterans.

(2) In providing advice to the Secretary under this subsection, the Committee shall—

(A) assemble and review information relating to the needs of homeless veterans;

(B) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans; and

(C) provide on-going advice on the most appropriate means of providing assistance to homeless veterans.

(3) The Committee shall—

(A) review the continuum of services provided by the Department directly or by contract in order to define cross-cutting issues and to improve coordination of all services with the Department that are involved in addressing the special needs of homeless veterans;

(B) identify (through the annual assessments under section 2034 of this title and other available resources) gaps in programs of the Department in serving homeless veterans, including identification of geographic areas with unmet needs, and provide recommendations to address those gaps;

(C) identify gaps in existing information systems on homeless veterans, both within and outside the Department, and

provide recommendations about redressing problems in data collection;

(D) identify barriers under existing laws and policies to effective coordination by the Department with other Federal agencies and with State and local agencies addressing homeless populations;

(E) identify opportunities for increased liaison by the Department with nongovernmental organizations and individual groups providing services to homeless populations;

(F) with appropriate officials of the Department designated by the Secretary, participate with the Interagency Council on the Homeless under title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.);

(G) recommend appropriate funding levels for specialized programs for homeless veterans provided or funded by the Department;

(H) recommend appropriate placement options for veterans who, because of advanced age, frailty, or severe mental illness, may not be appropriate candidates for vocational rehabilitation or independent living; and

(I) perform such other functions as the Secretary may direct.

(c) REPORTS.—(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to homeless veterans. Each such report shall include—

(A) an assessment of the needs of homeless veterans;

(B) a review of the programs and activities of the Department designed to meet such needs;

(C) a review of the activities of the Committee; and

(D) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

(2) Not later than 90 days after the receipt of a report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

(d) TERMINATION.—The Committee shall cease to exist December 31, 2015.

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**PART III—READJUSTMENT AND RELATED BENEFITS**

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**CHAPTER 31—TRAINING AND REHABILITATION FOR  
VETERANS WITH SERVICE-CONNECTED DISABILITIES**

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**§ 3104. Scope of services and assistance**

(a) Services and assistance which the Secretary may provide under this chapter, pursuant to regulations which the Secretary shall prescribe, include the following:

(1) Evaluation, including periodic reevaluations as appropriate with respect to a veteran participating in a rehabilitation program, of the potential for rehabilitation of a veteran, including diagnostic and related services (A) to determine whether the veteran has an employment handicap or a serious employment handicap and whether a vocational goal is reasonably feasible for such veteran, and (B) to provide a basis for planning a suitable vocational rehabilitation program or a program of services and assistance to improve the vocational rehabilitation potential or independent living status of such veteran, as appropriate.

(2) Educational, vocational, psychological, employment, and personal adjustment counseling.

(3) An allowance and other appropriate assistance, as authorized by section 3108 of this title.

(4) A work-study allowance as authorized by section 3485 of this title.

(5) Placement services to effect suitable placement in employment, and postplacement services to attempt to insure satisfactory adjustment in employment.

(6) Personal adjustment and work adjustment training.

(7)(A) Vocational and other training services and assistance, including individualized tutorial assistance, tuition, fees, books, supplies, handling charges, licensing fees, and equipment and other training materials determined by the Secretary to be necessary to accomplish the purposes of the rehabilitation program in the individual case.

(B) Payment for the services and assistance provided under subparagraph (A) of this paragraph shall be made from funds available for the payment of readjustment benefits.

(8) Loans as authorized by section 3112 of this title.

(9) Treatment, care, and services described in chapter 17 of this title.

(10) Prosthetic appliances, eyeglasses, and other corrective and assistive devices.

(11) Services to a veteran's family as necessary for the effective rehabilitation of such veteran.

(12) For veterans with the most severe service-connected disabilities who require homebound training or self-employment, or both homebound training and self-employment, such license fees and essential equipment, supplies, and minimum stocks of materials as the Secretary determines to be necessary for such a veteran to begin employment and are within the criteria and cost limitations that the Secretary shall prescribe in regulations for the furnishing of such fees, equipment, supplies, and stocks.

(13) Travel and incidental expenses under the terms and conditions set forth in section 111 of this title, plus, in the case of a veteran who because of such veteran's disability has transportation expenses in addition to those incurred by persons not so disabled, a special transportation allowance to defray such additional expenses during rehabilitation, job seeking, and the initial employment stage.

(14) Special services (including services related to blindness and deafness) including—

(A) language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(B) orientation, adjustment, mobility, reader, interpreter, and related services; and

(C) telecommunications, sensory, and other technical aids and devices.

(15) Services necessary to enable a veteran to achieve maximum independence in daily living.

(16) Other incidental goods and services determined by the Secretary to be necessary to accomplish the purposes of a rehabilitation program in an individual case.

(b) A rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the Secretary. *To the maximum extent practicable, a course of education or training may be pursued by a veteran as part of a rehabilitation program under this chapter only if the course is approved for purposes of chapter 30 or 33 of this title. The Secretary may waive the requirement under the preceding sentence to the extent the Secretary determines appropriate.*

*(c)(1) The Secretary shall have the authority to administer this chapter by prioritizing the provision of services under this chapter based on need, as determined by the Secretary. In evaluating need for purposes of this subsection, the Secretary shall consider disability ratings, the severity of employment handicaps, qualification for a program of independent living, income, and any other factor the Secretary determines appropriate.*

*(2) Not later than 90 days before making any changes to the prioritization of the provision of services under this chapter as authorized under paragraph (1), the Secretary shall submit to Congress a plan describing such changes.*

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### **§ 3118. Personnel training, development, and qualifications**

(a) The Secretary shall provide a program of ongoing professional training and development for Department of Veterans Affairs counseling and rehabilitation personnel engaged in providing rehabilitation services under this chapter. The objective of such training shall be to insure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of handicapped persons. For this purpose, the Secretary may employ the services of consultants and may make grants to and contract with public or private agencies (including institutions of higher learning) to conduct such training and development.

(b) The Secretary shall coordinate with the Commissioner of the Rehabilitation Services Administration in the Department of Edu-

cation [and the Assistant Secretary for Veterans' Employment in the Department of Labor] in planning and carrying out personnel training in areas of mutual programmatic concern.

(c) Notwithstanding any other provision of law, the Secretary shall establish such qualifications for personnel providing evaluation and rehabilitation services to veterans under this chapter and for employees performing the functions described in section 3106(f) of this title as the Secretary determines are necessary and appropriate to insure the quality of rehabilitation programs under this chapter. In establishing such qualifications, the Secretary shall take into account the qualifications established for comparable personnel under the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

**§ 3119. Rehabilitation research and special projects**

(a) The Secretary shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the Secretary shall conduct and provide support for the development or conduct, or both the development and conduct, of—

(1) studies and research concerning the psychological, educational, employment, social, vocational, industrial, and economic aspects of the rehabilitation of disabled veterans, including new methods of rehabilitation; and

(2) projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans.

(b) For the purpose specified in subsection (a) of this section, the Secretary is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

(c) The Secretary shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the Institute of Handicapped Research in the Department of Education, [the Assistant Secretary for Veterans' Employment in the Department of Labor,] and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern.

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**§ 3121. Veterans' Advisory Committee on Rehabilitation**

(a)(1) The Secretary shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation (hereinafter in this section referred to as the "Committee").

(2) The members of the Committee shall be appointed by the Secretary from the general public and shall serve for terms to be determined by the Secretary not to exceed three years. Veterans with service-connected disabilities shall be appropriately represented in the membership of the Committee, and the Committee shall also include persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs. The Secretary may designate one of the members of the Committee appointed under this paragraph to chair the Committee.

(3) The Committee shall also include as ex officio members the following: (A) one representative from the Veterans Health Administration and one from the Veterans Benefits Administration, (B) one representative from the Rehabilitation Services Administration of the Department of Education and one from the National Institute for Handicapped Research of the Department of Education, and (C) one representative of [the Assistant Secretary of Labor for Veterans' Employment and Training of the Department of Labor] *the Under Secretary for Veterans Economic Opportunity and Transition*.

(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of veterans' rehabilitation programs under this title.

(c) The Committee shall submit to the Secretary an annual report on the rehabilitation programs and activities of the Department of Veterans Affairs and shall submit such other reports and recommendations to the Secretary as the Committee determines appropriate. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the programs and activities of the Department of Veterans Affairs designed to meet such needs. The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a copy of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary was submitted to the Congress pursuant to such section.

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**CHAPTER 33—POST-9/11 EDUCATIONAL ASSISTANCE**

SUBCHAPTER I—DEFINITIONS

Sec.  
3301. Definitions.

\* \* \* \* \*

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

\* \* \* \* \*

3326. *Election to receive educational assistance.*

SUBCHAPTER I—DEFINITIONS

**§ 3301. Definitions**

In this chapter:

(1) The term “active duty” has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b)):

(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A).

(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12301(h), 12302, or 12304 of title 10 or section 712 of title 14.

(C) In the case of a member of the Army National Guard of the United States or Air National Guard of the United

States, in addition to service described in subparagraph (B), full-time service—

(i) in the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard; or

(ii) in the National Guard under section 502(f) of title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

(2) The term “entry level and skill training” means the following:

(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training or One Station Unit Training.

(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called “A” School).

(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

(E) In the case of members of the Coast Guard, Basic Training and Skill Training (or so-called “A” School).

(3) The term “program of education” has the meaning given such term in section 3002, except to the extent otherwise provided in section 3313.

(4) The term “Secretary of Defense” means the Secretary of Defense, except that the term means the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

#### SUBCHAPTER II—EDUCATIONAL ASSISTANCE

#### **§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement**

(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

(1) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty; or

(ii) is discharged or released from active duty as described in subsection (c).

(2) An individual who—

- (A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and
- (B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.
- (3) An individual who—
- (A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and
- (B) after completion of service described in subparagraph (A)—
- (i) continues on active duty for an aggregate of less than 36 months; or
- (ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).
- (4) An individual who—
- (A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and
- (B) after completion of service described in subparagraph (A)—
- (i) continues on active duty for an aggregate of less than 30 months; or
- (ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).
- (5) An individual who—
- (A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and
- (B) after completion of service described in subparagraph (A)—
- (i) continues on active duty for an aggregate of less than 24 months; or
- (ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).
- (6) An individual who—
- (A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and
- (B) after completion of service described in subparagraph (A)—
- (i) continues on active duty for an aggregate of less than 18 months; or

- (ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).
- (7) An individual who—
  - (A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and
  - (B) after completion of service described in subparagraph (A)—
    - (i) continues on active duty for an aggregate of less than 12 months; or
    - (ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).
- (8) An individual who—
  - (A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and
  - (B) after completion of service described in subparagraph (A)—
    - (i) continues on active duty for an aggregate of less than 6 months; or
    - (ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).
- (9) An individual who is the child or spouse of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces.
- (c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:
  - (1) A discharge from active duty in the Armed Forces with an honorable discharge.
  - (2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.
  - (3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.
  - (4) A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service for—
    - (A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;
    - (B) hardship; or
    - (C) a physical or mental condition that was not characterized as a disability and did not result from the individ-

ual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10 or section 182 of title 14.

(3) A period of service that is terminated because of a defective enlistment and induction based on—

(A) the individual's being a minor for purposes of service in the Armed Forces;

(B) an erroneous enlistment or induction; or

(C) a defective enlistment agreement.

(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of subsection (b).

(f) MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP.—

(1) IN GENERAL.—Educational assistance payable by reason of paragraph (9) of subsection (b) shall be known as the "Marine Gunnery Sergeant John David Fry scholarship".

(2) LIMITATION.—The entitlement of an individual to assistance under subsection (a) pursuant to paragraph (9) of subsection (b) because the individual was a spouse of a person described in such paragraph shall expire on the earlier of—

(A) the date that is 15 years after the date on which the person died; or

(B) the date on which the individual remarries.

(3) ELECTION ON RECEIPT OF CERTAIN BENEFITS.—[A surviving spouse] *Except as provided in paragraph (4), a surviving spouse* entitled to assistance under subsection (a) pursuant to paragraph (9) of subsection (b) who is also entitled to educational assistance under chapter 35 of this title may not receive assistance under both this section and such chapter, but shall make an irrevocable election (in such form and manner as the Secretary may prescribe) under which section or chapter to receive educational assistance.

(4) EXCEPTION FOR CERTAIN ELECTIONS.—

(A) IN GENERAL.—*An election made under paragraph (3) by a spouse described in subparagraph (B) may not be treated as irrevocable if such election occurred before the date of the enactment of this paragraph.*

(B) ELIGIBLE SURVIVING SPOUSE.—*A spouse described in this subparagraph is an individual—*

*(i) who is entitled to assistance under subsection (a) pursuant to paragraph (9) of subsection (b); and*

(ii) who was the spouse of a member of the Armed Forces who died during the period beginning on September 11, 2001, and ending on December 31, 2005.

[(4)] (5) DEFINITION OF CHILD.—For purposes of [that paragraph] paragraph (9) of subsection (b), the term “child” includes a married individual or an individual who is above the age of twenty-three years.

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**§ 3313. Programs of education leading to a degree pursued at institutions of higher learning on more than half-time basis**

(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual’s subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is approved for purposes of chapter 30 (including approval by the State approving agency concerned).

(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education leading to a degree at an institution of higher learning (as that term is defined in section 3452(f)) are amounts as follows:

(1) In the case of an individual entitled to educational assistance under this chapter by reason of paragraph (1), (2), or (9) of section 3311(b), amounts as follows:

(A) An amount equal to the following:

(i) [In the case of a program of education pursued at a public institution of higher learning] (I) *Subject to subclause (II), in the case of a program of education pursued at a public institution of higher learning not described in clause (ii)(II)(bb), the actual net cost for in-State tuition and fees assessed by the institution for the program of education after the application of—*

[(I)] (aa) any waiver of, or reduction in, tuition and fees; and

[(II)] (bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees.

(II) *In determining the actual net cost for in-State tuition and fees pursuant to subclause (I), the Secretary may not pay for tuition and fees relating to flight training.*

(ii) [In the case of a program of education pursued at a non-public or foreign institution of higher learn-

ing] (I) *In the case of a program of education described in subclause (II), the lesser of—*

[(I)] (aa) the actual net cost for tuition and fees assessed by the institution for the program of education after the application of—

[(aa)] (AA) any waiver of, or reduction in, tuition and fees; and

[(bb)] (BB) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

[(II)] (bb) the amount equal to—

[(aa)] (AA) for the academic year beginning on August 1, 2011, \$17,500; or

[(bb)] (BB) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).

(II) *A program of education described in this subclause is any of the following:*

(aa) *A program of education pursued at a non-public or foreign institution of higher learning.*

(bb) *A program of education pursued at a public institution of higher learning in which flight training is required to earn the degree being pursued (including with respect to a dual major, concentration, or other element of such a degree).*

(cc) *A program of education pursued at a public institution of higher learning in which the public institution of higher learning enters into a contract or agreement with an entity (other than another public institution of higher learning) to provide such program of education or a portion of such program of education.*

(B) A monthly stipend in an amount as follows:

(i) Except as provided in clauses (ii) and (iii), for each month an individual pursues a program of education on more than a half-time basis, a monthly housing stipend equal to the product of—

(I) the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher learning at which the individual is enrolled, multiplied by

(II) the lesser of—

(aa) 1.0; or

(bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

(ii) In the case of an individual pursuing a program of education at a foreign institution of higher learning on more than a half-time basis, for each month the individual pursues the program of education, a monthly housing stipend equal to the product of—

(I) the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5, multiplied by

(II) the lesser of—

(aa) 1.0; or

(bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

(iii) In the case of an individual pursuing a program of education solely through distance learning on more than a half-time basis, a monthly housing stipend equal to 50 percent of the amount payable under clause (ii) if the individual were otherwise entitled to a monthly housing stipend under that clause for pursuit of the program of education.

(iv) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

(I) \$1,000, multiplied by

(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3), amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4), amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the

program of education under paragraph (1) rather than this paragraph.

(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5), amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6), amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7), amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8), amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(d) FREQUENCY OF PAYMENT.—

(1) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(2) MONTHLY PAYMENTS.—Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

(3) REGULATIONS.—The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance under this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education leading to a degree while on active duty.

(2) AMOUNT OF ASSISTANCE.—The amounts of educational assistance payable under this chapter to an individual pursuing

a program of education leading to a degree while on active duty are as follows:

(A) Subject to subparagraph (C), an amount equal to the lesser of—

(i) in the case of a program of education pursued at a public institution of higher learning, the actual net cost for in-State tuition and fees assessed by the institution for the program of education after the application of—

(I) any waiver of, or reduction in, tuition and fees; and

(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees;

(ii) in the case of a program of education pursued at a non-public or foreign institution of higher learning, the lesser of—

(I) the actual net cost for tuition and fees assessed by the institution for the program of education after the application of—

(aa) any waiver of, or reduction in, tuition and fees; and

(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

(II) the amount equal to—

(aa) for the academic year beginning on August 1, 2011, \$17,500; or

(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h); or

(iii) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1)..

(B) Subject to subparagraph (C), for the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

(i) \$1,000, multiplied by (ii) the fraction of a complete academic year under the program of education that such quarter, semester, or term constitutes.

(C) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the amounts payable to the individual pursuant to subparagraphs (A)(i), (A)(ii), and (B) shall be the amounts otherwise determined pursuant to such subparagraphs multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

(3) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less whether a program of education pursued on active duty, a program of education leading to a degree, or a program of education other than a program of education leading to a degree.

(2) AMOUNT OF ASSISTANCE.—The educational assistance payable under this chapter to an individual pursuing a program of education covered by this subsection on half-time basis or less is the amounts as follows:

(A) The amount equal to the lesser of—

(i) the actual net cost for in-State tuition and fees assessed by the institution of higher learning for the program of education after the application of—

(I) any waiver of, or reduction in, tuition and fees; and

(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

(3) QUARTER, TERM, OR SEMESTER PAYMENTS.—Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by  
(B) the number of course hours for full-time pursuit of such program of education.

(g) PROGRAMS OF EDUCATION OTHER THAN PROGRAMS OF EDUCATION LEADING TO A DEGREE.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education other than a program of education leading to a degree at an institution other than an institution of higher learning (as that term is defined in section 3452(f)).

(2) PURSUIT ON HALF-TIME BASIS OR LESS.—The payment of educational assistance under this chapter for pursuit of a program of education otherwise described in paragraph (1) on a half-time basis or less is governed by subsection (f).

(3) AMOUNT OF ASSISTANCE.—The amounts of educational assistance payable under this chapter to an individual entitled to educational assistance under this chapter who is pursuing an approved program of education covered by this subsection are as follows:

(A) In the case of an individual enrolled in a program of education (other than a program described in subparagraphs (B) through (D)) in pursuit of a certificate or other non-college degree, the following:

(i) Subject to clause (iv), an amount equal to the lesser of—

(I) the actual net cost for in-State tuition and fees assessed by the institution concerned for the program of education after the application of—

(aa) any waiver of, or reduction in, tuition and fees; and

(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

(II) the amount equal to—

(aa) for the academic year beginning on August 1, 2011, \$17,500; or

(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).

(ii) Except in the case of an individual pursuing a program of education on a half-time or less basis and subject to clause (iv), a monthly housing stipend equal to the product—

(I) of—

(aa) in the case of an individual pursuing resident training, the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution at which the individual is enrolled; or

(bb) in the case of an individual pursuing a program of education through distance learning, a monthly amount equal to 50 percent of the amount payable under item (aa), multiplied by (II) the lesser of—

(aa) 1.0; or

(bb) the number of course hours borne by the individual in pursuit of the program of education involved, divided by the minimum number of course hours required for full-time pursuit of such program of education, rounded to the nearest multiple of 10.

(iii) Subject to clause (iv), a monthly stipend in an amount equal to \$83 for each month (or pro rata amount for a partial month) of training pursued for books supplies, equipment, and other educational costs.

(iv) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the amounts payable pursuant to clauses (i), (ii), and (iii) shall be the amounts otherwise determined pursuant to such clauses multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

(B) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training, amounts as follows:

(i) Subject to clauses (iii) and (iv), for each month the individual pursues the program of education, a monthly housing stipend equal to—

(I) during the first six-month period of the program, the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the employer at which the individual pursues such program;

(II) during the second six-month period of the program, 80 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I);

(III) during the third six-month period of the program, 60 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I);

(IV) during the fourth six-month period of such program, 40 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I); and

(V) during any month after the first 24 months of such program, 20 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I).

(ii) Subject to clauses (iii) and (iv), a monthly stipend in an amount equal to \$83 for each month (or pro rata amount for each partial month) of training pursued for books supplies, equipment, and other educational costs.

(iii) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of sections 3311(b), the amounts payable pursuant to clauses (i) and (ii) shall be the amounts otherwise determined pursuant to such clauses multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

(iv) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under clauses (i) and (iii) to the individual shall be limited to the same proportion of the applicable rate determined under this subparagraph as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

(C) In the case of an individual enrolled in a program of education consisting of flight training (regardless of the institution providing such program of education), an amount equal to—

(i) the lesser of—

(I) the actual net cost for in-State tuition and fees assessed by the institution concerned for the program of education after the application of—

- (aa) any waiver of, or reduction in, tuition and fees; and
- (bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or
- (II) the amount equal to—
  - (aa) for the academic year beginning on August 1, 2011, \$10,000; or
  - (bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h), multiplied by—
- (ii) either—
  - (I) in the case of an individual entitled to educational assistance by reason of paragraphs (1), (2), or (9) of section 3311(b), 100 percent; or
  - (II) in the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the same percentage as would otherwise apply to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).
- (D) In the case of an individual enrolled in a program of education that is pursued exclusively by correspondence (regardless of the institution providing such program of education), an amount equal to—
  - (i) the lesser of—
    - (I) the actual net cost for tuition and fees assessed by the institution concerned for the program of education after the application of—
      - (aa) any waiver of, or reduction in, tuition and fees; and
      - (bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees.
    - (II) the amount equal to—
      - (aa) for the academic year beginning on August 1, 2011, \$8,500; or
      - (bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the per-

centage increase equal to the most recent percentage increase determined under section 3015(h), multiplied by—

(ii) either—

(I) in the case of an individual entitled to educational assistance by reason of paragraphs (1), (2), or (9) of section 3311(b), 100 percent; or

(II) in the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the same percentage as would otherwise apply to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

(4) FREQUENCY OF PAYMENT.—

(A) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amounts payable under paragraph (3)(A)(i) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(B) MONTHLY PAYMENTS.—Payment of the amounts payable under paragraphs (3)(A)(ii) and (3)(B)(i) for pursuit of a program of education shall be made on a monthly basis.

(C) LUMP SUM PAYMENTS.—

(i) Payment for the amount payable under paragraphs (3)(A)(iii) and (3)(B)(ii) shall be paid to the individual for the first month of each quarter, semester, or term, as applicable, of the program education pursued by the individual.

(ii) Payment of the amount payable under paragraph (3)(C) for pursuit of a program of education shall be made upon receipt of certification for training completed by the individual and serviced by the training facility.

(D) QUARTERLY PAYMENTS.—Payment of the amounts payable under paragraph (3)(D) for pursuit of a program of education shall be made quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

(5) CHARGE AGAINST ENTITLEMENT FOR CERTIFICATE AND OTHER NON-COLLEGE DEGREE PROGRAMS.—

(A) IN GENERAL.—In the case of amounts paid under paragraph (3)(A)(i) for pursuit of a program of education, the charge against entitlement to educational assistance under this chapter of the individual for whom such payment is made shall be one month for each of—

(i) the amount so paid, divided by (ii) subject to subparagraph (B), the amount equal to one-twelfth of the amount applicable in the academic year in which the payment is made under paragraph (3)(A)(i)(II).

(B) PRO RATA ADJUSTMENT BASED ON CERTAIN ELIGIBILITY.—If the amount otherwise payable with respect to an individual under paragraph (3)(A)(i) is subject to a percentage adjustment under paragraph (3)(A)(iv), the amount applicable with respect to the individual under subparagraph (A)(ii) shall be the amount otherwise deter-

mined pursuant to such subparagraph subject to a percentage adjustment equal to the percentage adjustment applicable with respect to the individual under paragraph (3)(A)(iv).

(h) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2), and (f)(2)(A), and under subparagraphs (A)(i), (C), and (D) of subsection (g)(3), shall be paid directly to the educational institution concerned.

(i) DETERMINATION OF HOUSING STIPEND PAYMENTS FOR ACADEMIC YEARS.—Any monthly housing stipend payable under this section during the academic year beginning on August 1 of a calendar year shall be determined utilizing rates for basic allowances for housing payable under section 403 of title 37 in effect as of January 1 of such calendar year.

\* \* \* \* \*

**§ 3317. Public-private contributions for additional educational assistance**

(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in [paragraphs (1) and (2) of section 3311(b)] *paragraphs (1), (2), and (9) of section 3311(b) of this title.*

(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the “Yellow Ribbon G.I. Education Enhancement Program”.

(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

(d) MATCHING CONTRIBUTIONS.—

(1) IN GENERAL.—In instances where the educational assistance provided an individual under section 3313(c)(1)(A) does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory fees if the col-

lege or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

(2) USE OF APPROPRIATED FUNDS.—Amounts available to the Secretary under section 3324(b) for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

\* \* \* \* \*

### § 3319. Authority to transfer unused education benefits to family members

(a) IN GENERAL.—(1) Subject to the provisions of this section, the Secretary concerned may permit an individual described in subsection (b) who is entitled to educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such individual's entitlement to such assistance, subject to the limitation under subsection (d).

(2) The purpose of the authority in paragraph (1) is to promote recruitment and retention in the uniformed services. The Secretary concerned may exercise the authority for that purpose when authorized by the Secretary of Defense in the national security interests of the United States.

(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the uniformed services who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, has completed at least—

(1) **[six years]** *ten years* of service in the **[armed forces]** *Armed Forces* and enters into an agreement to serve at least **[four more years]** *two more years* as a member of the uniformed services; or

(2) the years of service as determined in regulations pursuant to subsection (j).

(c) ELIGIBLE DEPENDENTS.—An individual approved to transfer an entitlement to educational assistance under this section may transfer the individual's entitlement as follows:

(1) To the individual's spouse.

(2) To one or more of the individual's children.

(3) To a combination of the individuals referred to in paragraphs (1) and (2).

(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by a individual under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

(e) DESIGNATION OF TRANSFEREE.—An individual transferring an entitlement to educational assistance under this section shall—

(1) designate the dependent or dependents to whom such entitlement is being transferred;

- (2) designate the number of months of such entitlement to be transferred to each such dependent; and
  - (3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).
- (f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—
- (1) TIME FOR TRANSFER.—Subject to the time limitation for use of entitlement under section 3321 an individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement only while serving as a member of the **armed forces** *Armed Forces* when the transfer is executed.
  - (2) MODIFICATION OR REVOCATION.—
    - (A) IN GENERAL.—An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.
    - (B) NOTICE.—The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.
  - (3) PROHIBITION ON TREATMENT OF TRANSFERRED ENTITLEMENT AS MARITAL PROPERTY.—Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.
- (g) COMMENCEMENT OF USE.—A dependent to whom entitlement to educational assistance is transferred under this section may not commence the use of the transferred entitlement until—
- (1) in the case of entitlement transferred to a spouse, the completion by the individual making the transfer of at least—
    - (A) **six years** *ten years* of service in the **armed forces** *Armed Forces*; or
    - (B) the years of service as determined in regulations pursuant to subsection (j); or
  - (2) in the case of entitlement transferred to a child, both—
    - (A) the completion by the individual making the transfer of at least—
      - (i) ten years of service in the **armed forces** *Armed Forces*; or
      - (ii) the years of service as determined in regulations pursuant to subsection (j); and
    - (B) either—
      - (i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or
      - (ii) the attainment by the child of 18 years of age.
- (h) ADDITIONAL ADMINISTRATIVE MATTERS.—
- (1) USE.—The use of any entitlement to educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

(2) NATURE OF TRANSFERRED ENTITLEMENT.—Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6)—

(A) in the case of entitlement transferred to a spouse under this section, the spouse is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred; or

(B) in the case of entitlement transferred to a child under this section, the child is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred as if the individual were not on active duty.

(3) RATE OF PAYMENT.—The monthly rate of educational assistance payable to a dependent to whom entitlement referred to in paragraph (2) is transferred under this section shall be payable—

(A) in the case of a spouse, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer; or

(B) in the case of a child, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer as if the individual were not on active duty, *except that the amount of the monthly stipend described in subsection (c)(1)(B) or (g)(3)(A)(ii) of section 3313, as the case may be, shall be payable in an amount equal to 50 percent of the amount of such stipend that would otherwise be payable under this chapter to the individual making the transfer.*

(4) DEATH OF TRANSFEROR.—The death of an individual transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

(5) LIMITATION ON AGE OF USE BY CHILD TRANSFEREES.—

(A) IN GENERAL.—A child to whom entitlement is transferred under this section may use the benefits transferred without regard to the 15-year delimiting date specified in section 3321, but may not, except as provided in subparagraph (B), use any benefits so transferred after attaining the age of 26 years.

(B) PRIMARY CAREGIVERS OF SERIOUSLY INJURED MEMBERS OF THE ARMED FORCES AND VETERANS.—

(i) IN GENERAL.—Subject to clause (ii), in the case of a child who, before attaining the age of 26 years, is prevented from pursuing a chosen program of education by reason of acting as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a), the child may use the benefits beginning on the date specified in clause (iii) for a period whose length is specified in clause (iv).

(ii) INAPPLICABILITY FOR REVOCATION.—Clause (i) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revoca-

tion of the individual's designation as such a primary provider under section 1720G(a)(7)(D).

(iii) DATE FOR COMMENCEMENT OF USE.—The date specified in this clause for the beginning of the use of benefits by a child under clause (i) is the later of—

(I) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i);

(II) the date on which it is reasonably feasible, as determined under regulations prescribed by the Secretary, for the child to initiate or resume the use of benefits; or

(III) the date on which the child attains the age of 26 years.

(iv) LENGTH OF USE.—The length of the period specified in this clause for the use of benefits by a child under clause (i) is the length equal to the length of the period that—

(I) begins on the date on which the child begins acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i); and

(II) ends on the later of—

(aa) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member as described in clause (i); or

(bb) the date on which it is reasonably feasible, as so determined, for the child to initiate or resume the use of benefits.

(6) SCOPE OF USE BY TRANSFEREES.—The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

(7) ADDITIONAL ADMINISTRATIVE PROVISIONS.—The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible individual for purposes of such provisions.

(i) OVERPAYMENT.—

(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685.

(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(1) in accordance with the terms of the agreement of the individual under that sub-

section, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

(i) by reason of the death of the individual; or

(ii) for a reason referred to in section 3311(c)(4).

(j) REGULATIONS.—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

(2) Such regulations shall specify—

(A) the manner of authorizing the transfer of entitlements under this section;

(B) the eligibility criteria in accordance with subsection (b); and

(C) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

### SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

\* \* \* \* \*

#### **§ 3326. Election to receive educational assistance**

(a) *INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.*—An individual may elect to receive educational assistance under this chapter if such individual—

(1) as of August 1, 2009—

(A) is entitled to basic educational assistance under chapter 30 of the title and has used, but retains unused, entitlement under that chapter;

(B) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10 and has used, but retains unused, entitlement under the applicable chapter;

(C) is entitled to basic educational assistance under chapter 30 of this title but has not used any entitlement under that chapter;

(D) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10 but has not used any entitlement under such chapter;

(E) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of this title and is making contributions toward such assistance under section 3011(b) or 3012(c) of this title; or

(F) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of this title by reason of an election under section 3011(c)(1) or 3012(d)(1) of this title; and

(2) as of the date of the individual's election under this paragraph, meets the requirements for entitlement to educational assistance under this chapter.

(b) *CESSATION OF CONTRIBUTIONS TOWARD GI BILL.*—Effective as of the first month beginning on or after the date of an election under subsection (a) of an individual described by paragraph (1)(E) of that subsection, the obligation of the individual to make contributions

under section 3011(b) or 3012(c) of this title, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(c) **REVOCAION OF REMAINING TRANSFERRED ENTITLEMENT.**—

(1) **ELECTION TO REVOKE.**—If, on the date an individual described in paragraph (1)(A) or (1)(C) of subsection (a) makes an election under that subsection, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of this title is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(2) **AVAILABILITY OF REVOKED ENTITLEMENT.**—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of this title in accordance with the provisions of this section.

(3) **AVAILABILITY OF UNREVOKED ENTITLEMENT.**—Any entitlement described in paragraph (1) that is not revoked by an individual in accordance with that paragraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of this title.

(d) **POST-9/11 EDUCATIONAL ASSISTANCE.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and except as provided in subsection (e), an individual making an election under subsection (a) shall be entitled to educational assistance under this chapter in accordance with the provisions of this chapter, instead of basic educational assistance under chapter 30 this title, or educational assistance under chapter 107, 1606, or 1607 of title 10, as applicable.

(2) **LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.**—In the case of an individual making an election under subsection (a) who is described by paragraph (1)(A) of that subsection, the number of months of entitlement of the individual to educational assistance under this chapter 33 shall be the number of months equal to—

(A) the number of months of unused entitlement of the individual under chapter 30 of this title, as of the date of the election, plus

(B) the number of months, if any, of entitlement revoked by the individual under subsection (c)(1).

(e) **CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.**—

(1) **IN GENERAL.**—In the event educational assistance to which an individual making an election under subsection (a) would be entitled under chapter 30 of this title, or chapter 107, 1606, or 1607 of title 10, as applicable, is not authorized to be available to the individual under the provisions of this chapter the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(2) **CHARGE FOR USE OF ENTITLEMENT.**—The utilization by an individual of entitlement under paragraph (1) shall be chargeable against the entitlement of the individual to educational as-

assistance under this chapter at the rate of one month of entitlement under this chapter for each month of entitlement utilized by the individual under paragraph (1) (as determined as if such entitlement were utilized under the provisions of chapter 30 of this title, or chapter 107, 1606, or 1607 of title 10, as applicable).

(f) **ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.**—

(1) **ADDITIONAL ASSISTANCE.**—*In the case of an individual making an election under subsection (a) who is described by subparagraph (A), (C), or (E) of paragraph (1) of that subsection, the amount of educational assistance payable to the individual under this chapter 33 as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—*

(A) *the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of this title, as of the date of the election, multiplied by*

(B) *the fraction—*

(i) *the numerator of which is—*

(I) *the number of months of entitlement to basic educational assistance under chapter 30 of this title remaining to the individual at the time of the election; plus*

(II) *the number of months, if any, of entitlement under such chapter 30 revoked by the individual under subsection (c)(1); and*

(ii) *the denominator of which is 36 months.*

(2) **MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.**—*In the case of an individual covered by paragraph (1) who is described by subsection (a)(1)(E), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of paragraph (1)(B)(i)(II) shall be 36 months.*

(3) **TIMING OF PAYMENT.**—*The amount payable with respect to an individual under paragraph (1) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under subsections (b) through (g) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under this chapter.*

(g) **CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.**—*An individual making an election under subsection (a)(1) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of this title, or section 16131(i) of title 10, or supplemental educational assistance under subchapter III of chapter 30 of this title, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under this chapter, in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased edu-*

*cational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.*

*(h) ALTERNATIVE ELECTION BY SECRETARY.—*

*(1) IN GENERAL.—In the case of an individual who, on or after January 1, 2016, submits to the Secretary an election under this section that the Secretary determines is clearly against the interests of the individual, or who fails to make an election under this section, the Secretary may make an alternative election on behalf of the individual that the Secretary determines is in the best interests of the individual.*

*(2) NOTICE.—If the Secretary makes an election on behalf of an individual under this subsection, the Secretary shall notify the individual by not later than seven days after making such election and shall provide the individual with a 30-day period, beginning on the date of the individual’s receipt of such notice, during which the individual may modify or revoke the election made by the Secretary on the individual’s behalf. The Secretary shall include, as part of such notice, a clear statement of why the alternative election made by the Secretary is in the best interests of the individual as compared to the election submitted by the individual. The Secretary shall provide the notice required under this paragraph by electronic means whenever possible.*

*(i) IRREVOCABILITY OF ELECTIONS.—An election under subsection (a) or (c)(1) is irrevocable.*

\* \* \* \* \*

**CHAPTER 34—VETERANS’ EDUCATIONAL ASSISTANCE**

\* \* \* \* \*

**SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS;  
VETERAN-STUDENT SERVICES**

\* \* \* \* \*

**§ 3485. Work-study allowance**

(a)(1) Individuals utilized under the authority of subsection (b) shall be paid an additional educational assistance allowance (hereinafter in this section referred to as “work-study allowance”). Such allowance shall be paid in return for an individual’s entering into an agreement described in paragraph (3).

(2) Such work-study allowance shall be paid in an amount equal to the product of—

- (A) the applicable hourly minimum wage; and
- (B) the number of hours worked during the applicable period.

(3) An agreement described in this paragraph is an agreement of an individual to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with a qualifying work-study activity.

(4) For the purposes of this section, the term “qualifying work-study activity” means any of the following:

- (A) The outreach services program under chapter 63 of this title as carried out under the supervision of a Department em-

ployee or, during the period preceding **[June 30, 2013]** *June 30, 2013, or the period beginning on June 30, 2016, and ending on June 30, 2021*, outreach services to servicemembers and veterans furnished by employees of a State approving agency.

(B) The preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Department.

(C) The provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, including, during the period preceding **[June 30, 2013]** *June 30, 2013, or the period beginning on June 30, 2016, and ending on June 30, 2021*, the provision of such care to veterans in a State home for which payment is made under section 1741 of this title.

(D) Any other activity of the Department as the Secretary determines appropriate.

(E) In the case of an individual who is receiving educational assistance under chapter 1606 or 1607 of title 10, an activity relating to the administration of that chapter at Department of Defense, Coast Guard, or National Guard facilities.

(F) During the period preceding **[June 30, 2013]** *June 30, 2013, or the period beginning on June 30, 2016, and ending on June 30, 2021*, an activity relating to the administration of a national cemetery or a State veterans' cemetery.

(G) Any activity of a State veterans agency related to providing assistance to veterans in obtaining any benefit under the laws administered by the Secretary or the laws of the State.

(H) A position working in a Center of Excellence for Veteran Student Success, as established pursuant to part T of title VIII of the Higher Education Act of 1965 (20 U.S.C. 1161t et seq.).

(I) A position working in a cooperative program carried out jointly by the Department and an institution of higher learning.

(J) Any other veterans-related position in an institution of higher learning.

(5) An individual may elect, in a manner prescribed by the Secretary, to be paid in advance an amount equal to 40 percent of the total amount of the work-study allowance agreed to be paid under the agreement in return for the individual's agreement to perform the number of hours of work specified in the agreement (but not more than an amount equal to 50 times the applicable hourly minimum wage).

(6) For the purposes of this subsection and subsection (e), the term "applicable hourly minimum wages" means—

(A) the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)); or

(B) the hourly minimum wage under comparable law of the State in which the services are to be performed, if such wage is higher than the wage referred to in subparagraph (A) and the Secretary has made a determination to pay such higher wage.

(b) Notwithstanding any other provision of law, the Secretary shall, subject to the provisions of subsection (e) of this section, utilize, in connection with the activities specified in subsection (a)(1) of this section, the service of individuals who are pursuing pro-

grams of rehabilitation, education, or training under chapter 30, 31, 32, 33, or 34 of this title or chapter 1606 or 1607 of title 10, at a rate equal to at least three-quarters of that required of a full-time student. In carrying out this section, the Secretary, wherever feasible, shall give priority to veterans with disabilities rated at 30 percent or more for purposes of chapter 11 of this title. In the event an individual ceases to be at least a three-quarter-time student before completing such agreement, the individual may, with the approval of the Secretary, be permitted to complete such agreement.

(c) The Secretary shall determine the number of individuals whose services the Department of Veterans Affairs can effectively utilize and the types of services that such individuals may be required to perform, on the basis of a survey, which the Secretary shall conduct annually, of each Department of Veterans Affairs regional office in order to determine the numbers of individuals whose services can effectively be utilized during an enrollment period in each geographical area where Department of Veterans Affairs activities are conducted, and shall determine which individuals shall be offered agreements under this section in accordance with regulations which the Secretary shall prescribe, including as criteria (1) the need of the individual to augment the veteran's educational assistance or subsistence allowance; (2) the availability to the individual of transportation to the place where the individual's services are to be performed; (3) the motivation of the individual; and (4) in the case of a disabled veteran pursuing a course of vocational rehabilitation under chapter 31 of this title, the compatibility of the work assignment to the veteran's physical condition.

(d) While performing the services authorized by this section, individuals shall be deemed employees of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administered by the Office of Personnel Management.

(e)(1) Subject to paragraph (2) of this subsection, the Secretary may, notwithstanding any other provision of law, enter into an agreement with an individual under this section, or a modification of such an agreement, whereby the individual agrees to perform a qualifying work-study activity described in subsection (a)(4) and agrees that the Secretary shall, in lieu of paying the work-study allowance payable for such services, as provided in subsection (a) of this section, deduct the amount of the allowance from the amount which the individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program under this chapter, chapter 30, 31, 32, 33, 35, or 36 of this title, or chapter 1606 or 1607 of title 10 (other than an indebtedness arising from a refund penalty imposed under section 2135 of such title).

(2)(A) Subject to subparagraph (B) of this paragraph, the provisions of this section (other than those provisions which are determined by the Secretary to be inapplicable to an agreement under this subsection) shall apply to any agreement authorized under paragraph (1) of this subsection.

(B) For the purposes of this subsection, the Secretary may—

- (i) waive, in whole or in part, the limitations in subsection (a) of this section concerning the number of hours and periods during which services can be performed by the individual and

the provisions of subsection (b) of this section requiring the individual's pursuit of a program of rehabilitation, education, or training;

(ii) in accordance with such terms and conditions as may be specified in the agreement under this subsection, waive or defer charging interest and administrative costs pursuant to section 5315 of this title on the indebtedness to be satisfied by performance of the agreement; and

(iii) notwithstanding the indebtedness offset provisions of section 5314 of this title, waive or defer until the termination of an agreement under this subsection the deduction of all or any portion of the amount of indebtedness covered by the agreement from future payments to the individual as described in section 5314 of this title.

(3)(A) Subject to the provisions of subparagraphs (B) and (C) of this paragraph, an agreement authorized under this subsection shall terminate in accordance with the provisions of this section and the terms and conditions of the agreement which are consistent with this subsection.

(B) In no event shall an agreement under this subsection continue in force after the total amount of the individual's indebtedness described in paragraph (1) of this subsection has been recouped, waived, or otherwise liquidated.

(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, if the Secretary finds that an individual was without fault and was allowed to perform services described in the agreement after its termination, the Secretary shall, as reasonable compensation therefor, pay the individual at the applicable hourly minimum wage rate for such services as the Secretary determines were satisfactorily performed.

(4) The Secretary shall promulgate regulations to carry out this subsection.

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**CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS**

SUBCHAPTER I—STATE APPROVING AGENCIES

Sec.

3670. Scope of approval.

\* \* \* \* \*

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

3699. *Provision of certain information to educational institutions.*

SUBCHAPTER I—STATE APPROVING AGENCIES

\* \* \* \* \*

**§ 3672. Approval of courses**

(a) An eligible person or veteran shall receive the benefits of this chapter and chapters 34 and 35 of this title while enrolled in a course of education offered by an educational institution only if (1) such course is approved as provided in this chapter and chapters 34 and 35 of this title by the State approving agency for the State

where such educational institution is located, or by the Secretary, or (2) such course is approved (A) for the enrollment of the particular individual under the provisions of section 3536 of this title or (B) for special restorative training under subchapter V of chapter 35 of this title. Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and chapters 34 and 35 of this title and such other regulations and policies as the State approving agency may adopt. Each State approving agency shall furnish the Secretary with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Secretary as it and the Secretary may determine to be necessary to carry out the purposes of this chapter and chapters 34 and 35 of this title. Each State approving agency shall notify the Secretary of the disapproval of any course previously approved and shall set forth the reasons for such disapproval.

(b)(1) The Secretary shall be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education. The Secretary may approve any course in any other educational institution in accordance with the provisions of this chapter and chapters 34 and 35 of this title.

(2)(A) Subject to sections 3675(b)(1) and (b)(2), 3680A, 3684, and 3696 of this title, **【the following programs are deemed to be approved for purposes of this chapter:】** *a program of education is deemed to be approved for purposes of this chapter if a State approving agency determines that the program is one of the following programs:*

(i) An accredited standard college degree program offered at a public or not-for-profit proprietary educational institution that is accredited by an agency or association recognized for that purpose by the Secretary of Education.

(ii) A flight training course approved by the Federal Aviation Administration that is offered by a certified pilot school that possesses a valid Federal Aviation Administration pilot school certificate.

(iii) An apprenticeship program registered with the Office of Apprenticeship (OA) of the Employment Training Administration of the Department of Labor or a State apprenticeship agency recognized by the Office of Apprenticeship pursuant to the Act of August 16, 1937 (popularly known as the “National Apprenticeship Act”; 29 U.S.C. 50 et seq.).

(iv) A program leading to a secondary school diploma offered by a secondary school approved in the State in which it is operating.

(B) A licensure test offered by a Federal, State, or local government is deemed to be approved for purposes of this chapter.

(c)(1) In the case of programs of apprenticeship where—

(A) the apprenticeship standards have been approved by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the “National Apprenticeship Act”) (29 U.S.C. 50a), as a national apprenticeship program for operation in more than one State, and

(B) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State, the Secretary shall act as a "State approving agency" as such term is used in section 3687(a)(1) of this title and shall be responsible for the approval of all such programs.

(2) The period of a program of apprenticeship may be determined based upon a specific period of time (commonly referred to as a "time-based program"), based upon the demonstration of successful mastery of skills (commonly referred to as a "competency-based program"), or based upon a combination thereof.

(3)(A) In the case of a competency-based program of apprenticeship, State approving agencies shall determine the period for which payment may be made for such a program under chapters 30 and 35 of this title and chapter 1606 of title 10. In determining the period of such a program, State approving agencies shall take into consideration the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor.

(B) The sponsor of a competency-based program of apprenticeship shall provide notice to the State approving agency involved of any such standards that may apply to the program and the proposed approximate period of training under the program.

(4) The sponsor of a competency-based program of apprenticeship shall notify the Secretary upon the successful completion of a program of apprenticeship by an individual under chapter 30 or 35 of this title, or chapter 1606 of title 10, as the case may be.

(d)(1) Pursuant to regulations prescribed by the Secretary in consultation with the Secretary of Labor, the Secretary and State approving agencies shall actively promote the development of apprenticeship and on the job training programs for the purposes of sections 3677 and 3687 of this title and shall utilize the services of disabled veterans' outreach program specialists under section 4103A of this title to promote the development of such programs. The Secretary of Labor shall provide assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.

(2) In conjunction with outreach services provided by the Secretary under chapter 77 of this title for education and training benefits, each State approving agency shall conduct outreach programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State law.

(e) A program of education exclusively by correspondence, and the correspondence portion of a combination correspondence-residence course leading to a vocational objective, that is offered by an educational institution (as defined in section 3452(c) of this title) may be approved only if (1) the educational institution is accredited by an entity recognized by the Secretary of Education, and (2) at least 50 percent of those pursuing such a program or course require six months or more to complete the program or course.

\* \* \* \* \*

**§ 3675. Approval of accredited courses**

(a)(1) **【The Secretary or a State approving agency】** *A State approving agency, or the Secretary when acting in the role of a State approving agency,* may approve accredited programs (including non-degree accredited programs) **【offered by proprietary for-profit educational institutions】** *not covered by section 3672 of this title* when—

(A) such courses have been accredited and approved by a nationally recognized accrediting agency or association;

(B) such courses are conducted under the Act of February 23, 1917 (20 U.S.C. 11 et seq.);

(C) such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree; or

(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).

(2)(A) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which that Secretary determines to be reliable authority as to the quality of training offered by an educational institution.

(B) Except as provided in section 3672(e) of this title, a State approving agency may utilize the accreditation of any accrediting association or agency listed pursuant to subparagraph (A) of this paragraph for approval of courses specifically accredited and approved by such accrediting association or agency.

(3)(A) An educational institution shall submit an application for approval of courses to the appropriate State approving agency. In making application for approval, the institution (other than an elementary school or secondary school) shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the institution.

(B) Each catalog or bulletin transmitted by an institution under subparagraph (A) of this paragraph shall—

(i) state with specificity the requirements of the institution with respect to graduation;

(ii) include the information required under paragraphs (6) and (7) of section 3676(b) of this title; and

(iii) include any attendance standards of the institution, if the institution has and enforces such standards.

(b) As a condition of approval under this section, **【the Secretary or the State approving agency】** *the State approving agency, or the Secretary when acting in the role of a State approving agency,* must find the following:

(1) The educational institution keeps adequate records, as prescribed by **【the Secretary or the State approving agency】** *the State approving agency, or the Secretary when acting in the role of a State approving agency,*, to show the progress and grades of the eligible person or veteran and to show that satisfactory standards relating to progress and conduct are enforced.

(2) The educational institution maintains a written record of the previous education and training of the eligible person or veteran that clearly indicates that appropriate credit has been given by the educational institution for previous education and training, with the training period shortened proportionately.

(3) The educational institution and its approved courses meet the criteria of paragraphs (1), (2), **and (3)** (3), and (14) of section 3676(c) of this title.

(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

(2) For purposes of this subsection, the term “entrepreneurship course” means a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business concern (as defined pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a))).

(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) shall not apply to—

(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.

(4) Notwithstanding paragraph (3), a qualified provider of entrepreneurship courses shall maintain such records as the Secretary determines to be necessary to comply with reporting requirements that apply under section 3684(a)(1) of this title with respect to eligible persons and veterans enrolled in an entrepreneurship course offered by the provider.

### **§ 3676. Approval of nonaccredited courses**

(a) No course of education which has not been approved by a State approving agency pursuant to section 3675 of this title, which is offered by a public or private, profit or nonprofit, educational institution shall be approved for the purposes of this chapter unless the educational institution offering such course submits to the appropriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

(b) Such application shall be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

(1) Identifying data, such as volume number and date of publication;

(2) Names of the institution and its governing body, officials and faculty;

(3) A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates;

(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(5) Institution policy and regulations relative to leave, absences, class cuts, makeup work, tardiness and interruptions for unsatisfactory attendance;

(6) Institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student);

(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(8) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom;

(10) A description of the available space, facilities, and equipment;

(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(12) Policy and regulations of the institution relative to granting credit for previous educational training.

(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct will be furnished the eligible person upon enrollment.

(6) Upon completion of training, the eligible person is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(9) The institution is financially sound and capable of fulfilling its commitments for training.

(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency (A) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (B) has, if such an order has been issued, given due weight to that fact.

(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time before completion and—

(A) in the case of an institution (other than (i) a Federal, State, or local Government institution or (ii) an institution described in subparagraph (B)), such policy provides that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length; or

(B) in the case of an institution that is a nonaccredited public educational institution, the institution has and maintains a refund policy regarding the unused portion of tuition, fees, and other charges that is substantially the same as the refund policy followed by accredited public educational institutions located within the same State as such institution.

(14) Such additional criteria as may be deemed necessary by the State approving agency *if the Secretary, in consultation with the State approving agency and pursuant to regulations prescribed to carry out this paragraph, determines such criteria are necessary and treat public, private, and proprietary for-profit educational institutions equitably.*

(d) The Secretary may waive, in whole or in part, the requirements of subsection (c)(13) of this section in the case of an educational institution which—

(1) is a college, university, or similar institution offering postsecondary level academic instruction that leads to an associate or higher degree,

(2) is operated by an agency of a State or of a unit of local government,

(3) is located within such State or, in the case of an institution operated by an agency of a unit of local government, with-

in the boundaries of the area over which such unit has taxing jurisdiction, and

(4) is a candidate for accreditation by a regional accrediting association,

if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that such requirements would work an undue administrative hardship because the total amount of tuition, fees, and other charges at such institution is nominal.

(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study.

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**§ 3679. Disapproval of courses**

(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the Secretary or the appropriate State approving agency. An educational institution which has its courses disapproved by the Secretary or a State approving agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(b) Each State approving agency shall notify the Secretary of each course which it has disapproved under this section. The Secretary shall notify the State approving agency of the Secretary's disapproval of any educational institution under chapter 31 of this title.

(c)(1) Notwithstanding any other provision of this chapter and subject to paragraphs (3) through (6), the Secretary shall disapprove a course of education provided by a public institution of higher learning if the institution charges tuition and fees for that course for covered individuals who are pursuing the course with educational assistance under chapter 30 or 33 of this title while living in the State in which the institution is located at a rate that is higher than the rate the institution charges for tuition and fees for that course for residents of the State in which the institution is located, regardless of the covered individual's State of residence.

(2) For purposes of this subsection, a covered individual is any individual as follows:

(A) A veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than three years before the date of enrollment in the course concerned.

(B) An individual who is entitled to assistance under section 3311(b)(9) [or 3319 of this title by virtue of such individual's relationship to a veteran described in subparagraph (A).] *of this title or to whom educational assistance is transferred under section 3319 of this title.*

(3) If after enrollment in a course of education that is subject to disapproval under paragraph (1) by reason of paragraph (2)(A) or (2)(B) a covered individual pursues one or more courses of education at the same public institution of higher learning while remaining continuously enrolled (other than during regularly scheduled breaks between courses, semesters or terms) at that institution of higher learning, any course so pursued by the covered indi-

vidual at that institution of higher learning while so continuously enrolled shall also be subject to disapproval under paragraph (1).

(4) It shall not be grounds to disapprove a course of education under paragraph (1) if a public institution of higher learning requires a covered individual pursuing a course of education at the institution to demonstrate an intent, by means other than satisfying a physical presence requirement, to establish residency in the State in which the institution is located, or to satisfy other requirements not relating to the establishment of residency, in order to be charged tuition and fees for that course at a rate that is equal to or less than the rate the institution charges for tuition and fees for that course for residents of the State.

(5) The Secretary may waive such requirements of paragraph (1) as the Secretary considers appropriate.

(6) Disapproval under paragraph (1) shall apply only with respect to educational assistance under chapters 30 and 33 of this title.

## SUBCHAPTER II—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

### **§ 3684. Reports by veterans, eligible persons, and institutions; reporting fee**

(a)(1) Except as provided in paragraph (2) of this subsection, the veteran or eligible person and the educational institution offering a course in which such veteran or eligible person is enrolled under chapter 31, 32, 33, 34, 35, or 36 of this title shall, without delay, report to the Secretary, in the form prescribed by the Secretary, such enrollment and any interruption or termination of the education of each such veteran or eligible person. The date of such interruption or termination will be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school.

(2)(A) In the case of a program of independent study pursued on less than a half-time basis in an educational institution, the Secretary may approve a delay by the educational institution in reporting the enrollment or reenrollment of an eligible veteran or eligible person until the end of the term, quarter, or semester if the educational institution requests the delay and the Secretary determines that it is not feasible for the educational institution to monitor interruption or termination of the veteran's or eligible person's pursuit of such program.

(B) An educational institution which, pursuant to subparagraph (A) of this paragraph, is delaying the reporting of the enrollment or reenrollment of a veteran shall provide the veteran with notice of the delay at the time that the veteran enrolls or reenrolls.

(3)(A) Subject to subparagraph (B) of this paragraph, an educational institution offering courses on a term, quarter, or semester basis may certify the enrollment of a veteran who is not on active duty, or of an eligible person, in such courses for more than one term, quarter, or semester at a time, but not for a period extending beyond the end of a school year (including the summer enrollment period).

(B) Subparagraph (A) of this paragraph shall not apply with respect to any term, quarter, or semester for which the veteran or eli-

gible person is enrolled on a less than half-time basis and shall not be construed as restricting the Secretary from requiring that an educational institution, in reporting an enrollment for more than one term, quarter, or semester, specify the dates of any intervals within or between any such terms, quarters, or semesters.

*(4) For purposes of this subsection, the term "educational institution" may include a group, district, or consortium of separately accredited educational institutions located in the same State that are organized in a manner that facilitates the centralized reporting of the enrollments in such group, district, or consortium of institutions.*

(b) The Secretary, prior to making payment of a reporting fee to an educational institution, as provided for in subsection (c) of this section, shall require such institution to certify that it has exercised reasonable diligence in determining whether such institution or any course offered by such institution approved for the enrollment of veterans or eligible persons meets all of the applicable requirements of chapters 31, 34, 35, and 36 of this title and that it will, without delay, report any failure to meet any such requirement to the Secretary.

(c) The Secretary may pay to any educational institution, or to the sponsor of a program of apprenticeship, furnishing education or training under either this chapter or chapter 31, 34, or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Secretary by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying \$12 by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 31, 34, or 35 of this title, or \$15 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 3680(d)(4) of this title, during the calendar year. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable. No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Secretary against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 3685 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction. Any reporting fee paid an educational institution or joint apprenticeship training committee after the date of the enactment of the Post-9/11 Veterans Educational Assistance Improvements Act of 2011 shall be utilized by such institution or committee solely for the making of certifications required under this chapter or chapter 31, 34, or 35 of this title or for otherwise supporting programs for veterans. The reporting fee payable under this subsection shall be paid from amounts appropriated for readjustment benefits.

(d) Not later than 90 days after the date of the enactment of this subsection, the Secretary shall ensure that the Department provides personnel of educational institutions who are charged with

submitting reports or certifications to the Secretary under this section with assistance in preparing and submitting such reports or certifications.

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**§ 3692. Advisory committee**

(a) There shall be a Veterans' Advisory Committee on Education formed by the Secretary which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to eligible veterans or persons enrolled under chapter 30, 32, 33, or 35 of this title and chapter 1606 of title 10. The committee shall also, to the maximum extent practicable, include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, the post-Vietnam era, and the Persian Gulf War. The Assistant Secretary of Education for Postsecondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) [and the Assistant Secretary of Labor for Veterans' Employment and Training shall be *ex officio* members] *an ex officio member* of the advisory committee.

(b) The Secretary shall consult with and seek the advice of the committee from time to time with respect to the administration of this chapter, chapters 30, 32, 33, and 35 of this title, and chapter 1606 of title 10. The committee may make such reports and recommendations as it considers desirable to the Secretary and the Congress.

(c) The committee shall remain in existence until December 31, 2015.

**§ 3693. Compliance surveys**

[(a) Except as provided in subsection (b) of this section, the Secretary shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Secretary shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.]

*(a)(1) Except as provided in subsection (b), the Secretary shall conduct an annual compliance survey of educational institutions and training establishments offering one or more courses approved for the enrollment of eligible veterans or persons if at least 20 such veterans or persons are enrolled in any such course. The Secretary shall—*

*(A) design the compliance surveys to ensure that such institutions or establishments, as the case may be, and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title;*

(B) survey each such educational institution and training establishment not less than once during every two-year period; and

(C) assign not fewer than one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

(2) The Secretary, in consultation with the State approving agencies, shall—

(A) annually determine the parameters of the surveys required under paragraph (1); and

(B) not later than September 1 of each year, make available to the State approving agencies a list of the educational institutions and training establishments that will be surveyed during the fiscal year following the date of making such list available.

(b) The Secretary may waive the requirement in subsection (a) of this section for an annual compliance survey subsection (a)(1) for a compliance survey with respect to an institution educational institution or training establishment if the Secretary determines, based on the institution’s demonstrated record of compliance record of compliance of such institution or establishment with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.

(c) In this section, the terms “educational institution” and “training establishment” have the meaning given such terms in section 3452 of this title.

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**§ 3699. Provision of certain information to educational institutions**

For each veteran or other individual pursuing a course of education that has been approved under this chapter using educational assistance to which the veteran or other individual is entitled under chapter 30, 32, 33, or 35 of this title, the Secretary shall make available to the educational institution offering the course information about the amount of such educational assistance to which the veteran or other individual is entitled. Such information shall be provided to such educational institution through a secure information technology system accessible by the educational institution and shall be regularly updated to reflect any amounts used by the veteran or other individual.

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**CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS**

**SUBCHAPTER I—GENERAL**

\* \* \* \* \*

**§ 3703. Basic provisions relating to loan guaranty and insurance**

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 3710 of this title and in compliance with the provisions of this chapter,

is automatically guaranteed by the United States in an amount not to exceed the lesser of—

(i)(I) in the case of any loan of not more than \$45,000, 50 percent of the loan;

(II) in the case of any loan of more than \$45,000, but not more than \$56,250, \$22,500;

(III) except as provided in subclause (IV) of this clause, in the case of any loan of more than \$56,250, the lesser of \$36,000 or 40 percent of the loan; or

(IV) in the case of any loan of more than \$144,000 for a purpose specified in clause (1), (2), (3), (5), (6), or (8) of section 3710(a) of this title, **the lesser of** the maximum guaranty amount (as defined in subparagraph (C)) **or 25 percent of the loan**; or

(ii) the maximum amount of guaranty entitlement available to the veteran as specified in subparagraph (B) of this paragraph.

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

(C) In this paragraph, the term “maximum guaranty amount” means the dollar amount that is equal to 25 percent of the **Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.** *amount of the loan.*

(2)(A) Any housing loan which might be guaranteed under the provisions of this chapter, when made or purchased by any financial institution subject to examination and supervision by any agency of the United States or of any State may, in lieu of such guaranty, be insured by the Secretary under an agreement whereby the Secretary will reimburse any such institution for losses incurred on such loan up to 15 per centum of the aggregate of loans so made or purchased by it.

(B) Loans insured under this section shall be made on such other terms, conditions, and restrictions as the Secretary may prescribe within the limitations set forth in this chapter.

(b) The liability of the United States under any guaranty, within the limitations of this chapter, shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(c)(1) Loans guaranteed or insured under this chapter shall be payable upon such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Secretary issued pursuant to this chapter, and shall bear interest not in excess of such rate as the Secretary may from time to time find the loan market demands, except that in establishing the rate of interest that shall be applicable to such loans, the Secretary shall consult with the Secretary of Housing and Urban Development regarding the rate of interest applicable to home loans insured under section 203(b) of the National Housing

Act (12 U.S.C. 1709(b)). In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 3710(a) of this title, the Secretary may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Secretary may from time to time find the loan market demands for loans for such purposes.

(2) The provisions of the Servicemen's Readjustment Act of 1944 which were in effect before April 1, 1958, with respect to the interest chargeable on loans made or guaranteed under such Act shall, notwithstanding the provisions of paragraph (1) of this subsection, continue to be applicable—

(A) to any loan made or guaranteed before April 1, 1958; and

(B) to any loan with respect to which a commitment to guarantee was entered into by the Secretary before April 1, 1958.

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used—

(A) to refinance indebtedness pursuant to clause (5), (8), or (9)(B)(i) of section 3710(a) of this title or section 3712(a)(1)(F) of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 3710(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran;

(D) to purchase a dwelling from a class of sellers which the Secretary determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served; or

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 3710(a)(9)(B)(ii) or 3712(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary may elect whether to require that such loans bear interest at a rate that is—

(i) agreed upon by the veteran and the mortgagee; or

(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

(d)(1) The maturity of any housing loan at the time of origination shall not be more than thirty years and thirty-two days.

(2)(A) Any loan for a term of more than five years shall be amortized in accordance with established procedure.

(B) The Secretary may guarantee loans with provisions for various rates of amortization corresponding to anticipated variations in family income. With respect to any loan guaranteed under this subparagraph—

(i) the initial principal amount of the loan may not exceed the reasonable value of the property as of the time the loan is made; and

(ii) the principal amount of the loan thereafter (including the amount of all interest to be deferred and added to principal) may not at any time be scheduled to exceed the projected value of the property.

(C) For the purposes of subparagraph (B) of this paragraph, the projected value of the property shall be calculated by the Secretary by increasing the reasonable value of the property as of the time the loan is made at a rate not in excess of 2.5 percent per year, but in no event may the projected value of the property for the purposes of such subparagraph exceed 115 percent of such reasonable value. A loan made for a purpose other than the acquisition of a single-family dwelling unit may not be guaranteed under such subparagraph.

(3)(A) Any real estate housing loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. In determining whether a loan is so secured, the Secretary may either disregard or allow for subordination to a superior lien created by a duly recorded covenant running with the realty in favor of either of the following:

(i) A public entity that has provided or will provide assistance in response to a major disaster as determined by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(ii) A private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services, or programs within and for the benefit of the development or community in which the veteran's realty is located, if the Secretary determines that the interests of the veteran borrower and of the Government will not be prejudiced by the operation of such covenant.

(B) With respect to any superior lien described in subparagraph (A) created after June 6, 1969, the Secretary's determination under clause (ii) of such subparagraph shall have been made prior to the recordation of the covenant.

(e)(1) Except as provided in paragraph (2) of this subsection, an individual who pays a fee under section 3729 of this title, or who is exempted under section 3729(c)(1) of this title from paying such fee, with respect to a housing loan guaranteed or insured under this chapter that is closed after December 31, 1989, shall have no liability to the Secretary with respect to the loan for any loss resulting from any default of such individual except in the case of fraud, misrepresentation, or bad faith by such individual in obtaining the loan or in connection with the loan default.

(2) The exemption from liability provided by paragraph (1) of this subsection shall not apply to—

(A) an individual from whom a fee is collected (or who is exempted from such fee) under section 3729(b)(2)(I) of this title; or

(B) a loan made for any purpose specified in section 3712 of this title.

(f) The application for or obtaining of a loan made, insured, or guaranteed under this chapter shall not be subject to reporting requirements applicable to requests for, or receipts of, Federal contracts, grants, loans, loan guarantees, loan insurance, or cooperative agreements except to the extent that such requirements are provided for in, or by the Secretary pursuant to, this title.

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**CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS**

Sec.

4100. Findings.

\* \* \* \* \*

**[4102A. Assistant Secretary of Labor for Veterans’ Employment and Training; program functions; Regional Administrators.]**

*4102A. Deputy Under Secretary for Veterans’ Employment, Training, and Transition; program functions; Regional Administrators.*

\* \* \* \* \*

**[4108. Cooperation and coordination.]**

\* \* \* \* \*

*4115. Longitudinal study of job counseling, training, and placement service for veterans.*

**§ 4100. Findings**

The Congress makes the following findings:

(1) As long as unemployment and underemployment continue as serious problems among disabled veterans and Vietnam-era veterans, alleviating unemployment and underemployment among such veterans is a national responsibility.

(2) Because of the special nature of employment and training needs of such veterans and the national responsibility to meet those needs, policies and programs to increase opportunities for such veterans to obtain employment, job training, counseling, and job placement services and assistance in securing advancement in employment should be effectively and vigorously implemented by the **[Secretary of Labor]** *Secretary* and such implementation should be accomplished through the **[Assistant Secretary of Labor for Veterans’ Employment and Training]** *Deputy Under Secretary for Employment, Training, and Transition*.

**§ 4101. Definitions**

For the purposes of this chapter—

(1) The term “special disabled veteran” has the same meaning provided in section 4211(1) of this title.

(2) The term “veteran of the Vietnam era” has the same meaning provided in section 4211(2) of this title.

(3) The term “disabled veteran” has the same meaning provided in section 4211(3) of this title.

(4) The term “eligible veteran” has the same meaning provided in section 4211(4) of this title.

(5) The term “eligible person” means—

(A) the spouse of any person who died of a service-connected disability,

(B) the spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance under this chapter, is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power, or

(C) the spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

(6) The term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and may include, to the extent determined necessary and feasible, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas Islands, and the Trust Territory of the Pacific Islands.

(7) The term “employment service delivery system” means a service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.

[(8) The term “Secretary” means the Secretary of Labor.]

(9) The term “career services” means local employment and training services of the type described in section 134(c)(2) of the Workforce Innovation and Opportunity Act.

#### **§ 4102. Purpose**

The Congress declares as its intent and purpose that there shall be an effective (1) job and job training intensive services program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons and that, to this end policies and regulations shall be promulgated and administered by an [Assistant Secretary of Labor for Veterans’ Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition*, established by section 4102A of this title, through a Veterans’ Employment and Training Service within the [Department of Labor] *Department*, so as to provide such veterans and persons the maximum of employment and training opportunities, with priority given to the needs of disabled veterans and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized through existing programs, coordination and merger of programs and implementation of new programs, including programs carried out by the Veterans’ Employment and Training Service to implement all efforts to ease the transition of

servicemembers to civilian careers that are consistent with, or an outgrowth of, the military experience of the servicemembers.

**【§ 4102A. Assistant Secretary of Labor for Veterans' Employment and Training; program functions; Regional Administrators】**

**§ 4102A. Deputy Under Secretary for Veterans' Employment, Training, and Transition; program functions; Regional Administrators**

【(a) ESTABLISHMENT OF POSITION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment and Training, appointed by the President by and with the advice and consent of the Senate, who shall formulate and implement all departmental policies and procedures to carry out (A) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (B) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans.

【(2) The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment and Training.

【(3)(A) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes.

【(B) No individual may be appointed as a Deputy Assistant Secretary of Labor for Veterans' Employment and Training unless the individual has at least five years of service in a management position as an employee of the Federal civil service or comparable service in a management position in the Armed Forces. For purposes of determining such service of an individual, there shall be excluded any service described in subparagraphs (A), (B), and (C) of section 308(d)(2) of this title.】

*(a) DEPUTY UNDER SECRETARY FOR VETERANS' EMPLOYMENT, TRAINING, AND TRANSITION.—(1) The Deputy Under Secretary for Employment, Training, and Transition established by subsection (c)(2) of section 8001 of this title shall formulate and implement all departmental policies and procedures to carry out this chapter and the other programs described in such subsection.*

*(2) The employees of the Department administering chapter 43 of this title shall be administratively and functionally responsible to the Deputy Under Secretary for Employment, Training, and Transition.*

(b) PROGRAM FUNCTIONS.—The Secretary shall carry out the following functions:

(1) Except as expressly provided otherwise, carry out all provisions of this chapter and chapter 43 of this title through the **【Assistant Secretary of Labor for Veterans' Employment and Training】** *Deputy Under Secretary for Employment, Training, and Transition* and administer through **【such Assistant Secretary】** *such Deputy Under Secretary* all programs under the

jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of all veterans and persons eligible for services furnished under this chapter.

(2) In order to make maximum use of available resources in meeting such needs, encourage all such programs, and all grantees and contractors under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns owned by veterans or disabled veterans), educational institutions, trade associations, and labor unions.

(3) Ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating [and consulting with the Secretary of Veterans Affairs] with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 1712A of this title, apprenticeship or other on-the-job training programs carried out under section 3687 of this title, and rehabilitation and training activities carried out under chapter 31 of this title and (B) determinations covering veteran population in a State.

(4) Ensure that employment, training, and placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

(5) Subject to subsection (c), make available for use in each State by grant or contract such funds as may be necessary to support—

(A) disabled veterans' outreach program specialists appointed under section 4103A(a)(1) of this title,

(B) local veterans' employment representatives assigned under section 4104(b) of this title, and

(C) the reasonable expenses of such specialists and representatives described in subparagraphs (A) and (B), respectively, for training, travel, supplies, and other business expenses, including travel expenses and per diem for attendance at the National Veterans' Employment and Training Services Institute established under section 4109 of this title.

(6) Monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under paragraph (5).

(7) Establish, and update as appropriate, a comprehensive performance accountability system (as described in subsection (f)) and carry out annual performance reviews of veterans employment, training, and placement services provided through employment service delivery systems, including through disabled veterans' outreach program specialists and through local veterans' employment representatives in States receiving grants, contracts, or awards under this chapter.

(8) With advice and assistance from the Advisory Committee on Veterans Employment, Training, and Employer Outreach established under section 4110 of this title, furnish information to employers (through meetings in person with hiring execu-

tives of corporations and otherwise) with respect to the training and skills of veterans and disabled veterans, and the advantages afforded employers by hiring veterans with such training and skills, and to facilitate employment of veterans and disabled veterans through participation in labor exchanges (Internet-based and otherwise), and other means.

(c) CONDITIONS FOR RECEIPT OF FUNDS.—(1) The distribution and use of funds under subsection (b)(5) in order to carry out sections 4103A(a) and 4104(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 4103A or 4104 of this title.

(2)(A) A State shall submit to the Secretary an application for a grant or contract under subsection (b)(5). The application shall contain the following information:

(i) A plan that describes the manner in which the State shall furnish employment, training, and placement services required under this chapter for the program year, including a description of—

(I) duties assigned by the State to disabled veterans' outreach program specialists and local veterans' employment representatives consistent with the requirements of sections 4103A and 4104 of this title;

(II) the manner in which such specialists and representatives are integrated in the employment service delivery systems in the State; and

(III) the program of performance incentive awards described in section 4112 of this title in the State for the program year.

(ii) The veteran population to be served.

(iii) For each employee of the State who is assigned to perform the duties of a disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter—

(I) the date on which the employee is so assigned; and

(II) whether the employee has satisfactorily completed such training by the National Veterans' Employment and Training Services Institute as the Secretary requires for purposes of paragraph (8).

(iv) Such additional information as the Secretary may require to make a determination with respect to awarding a grant or contract to the State.

(B)(i) Subject to the succeeding provisions of this subparagraph, of the amount available under subsection (b)(5) for a fiscal year, the Secretary shall make available to each State with an application approved by the Secretary an amount of funding in proportion to the number of veterans seeking employment using such criteria as the Secretary may establish in regulation, including civilian labor force and unemployment data, for the State on an annual basis. The proportion of funding shall reflect the ratio of—

(I) the total number of veterans residing in the State that are seeking employment; to

(II) the total number of veterans seeking employment in all States.

(ii) The Secretary shall phase in over the three fiscal-year period that begins on October 1, 2003, the manner in which amounts are made available to States under subsection (b)(5) and this subsection, as amended by the Jobs for Veterans Act.

(iii) In carrying out this paragraph, the Secretary may establish minimum funding levels and hold-harmless criteria for States.

(3)(A)(i) As a condition of a grant or contract under this section for a program year, in the case of a State that the Secretary determines has an entered-employment rate for veterans that is deficient for the preceding program year, the State shall develop a corrective action plan to improve that rate for veterans in the State.

(ii) The State shall submit the corrective action plan to the Secretary for approval, and if approved, shall expeditiously implement the plan.

(iii) If the Secretary does not approve a corrective action plan submitted by the State under clause (i), the Secretary shall take such steps as may be necessary to implement corrective actions in the State to improve the entered-employment rate for veterans in that State.

(B) To carry out subparagraph (A), the Secretary shall establish in regulations a uniform national threshold entered-employment rate for veterans for a program year by which determinations of deficiency may be made under subparagraph (A).

(C) In making a determination with respect to a deficiency under subparagraph (A), the Secretary shall take into account the applicable annual unemployment data for the State and consider other factors, such as prevailing economic conditions, that affect performance of individuals providing employment, training, and placement services in the State.

(4) In determining the terms and conditions of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall take into account—

(A) the results of reviews, carried out pursuant to subsection (b)(7), of the performance of the employment, training, and placement service delivery system in the State, and

(B) the monitoring carried out under this section.

(5) Each grant or contract by which funds are made available to a State shall contain a provision requiring the recipient of the funds—

(A) to comply with the provisions of this chapter; and

(B) on an annual basis, to notify the Secretary of, and provide supporting rationale for, each nonveteran who is employed as a disabled veterans' outreach program specialist and local veterans' employment representative for a period in excess of 6 months.

(6) Each State shall coordinate employment, training, and placement services furnished to veterans and eligible persons under this chapter with such services furnished with respect to such veterans and persons under the Workforce Investment Act of 1998 and the Wagner-Peyser Act.

(7) Of the amount of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title for any program year, one percent shall be for the

purposes of making cash awards under the program of performance incentive awards described in section 4112 of this title in the State.

(8)(A) As a condition of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall require the State to require each employee hired by the State who is assigned to perform the duties of a disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter to satisfactorily complete training provided by the National Veterans' Employment and Training Services Institute during the 18-month period that begins on the date on which the employee is so assigned.

(B) For any employee described in subparagraph (A) who does not complete such training during such period, the Secretary may reduce by an appropriate amount the amount made available to the State employing that employee.

(C) The Secretary may establish such reasonable exceptions to the completion of training otherwise required under subparagraph (A) as the Secretary considers appropriate.

(9)(A) As a condition of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title for any program year, the Secretary may require the State—

(i) to demonstrate that when the State approves or denies a certification or license described in subparagraph (B) for a veteran the State takes into consideration any training received or experience gained by the veteran while serving on active duty in the Armed Forces; and

(ii) to disclose to the Secretary in writing the following:

(I) Criteria applicants must satisfy to receive a certification or license described in subparagraph (B) by the State.

(II) A description of the standard practices of the State for evaluating training received by veterans while serving on active duty in the Armed Forces and evaluating the documented work experience of such veterans during such service for purposes of approving or denying a certification or license described in subparagraph (B).

(III) Identification of areas in which training and experience described in subclause (II) fails to meet criteria described in subclause (I)."

(B) A certification or license described in this subparagraph is any of the following:

(i) A license to be a nonemergency medical professional.

(ii) A license to be an emergency medical professional.

(iii) A commercial driver's license.

(C) The Secretary shall share the information the Secretary receives under subparagraph (A)(ii) with the Secretary of Defense to help the Secretary of Defense improve training for military occupational specialties so that individuals who receive such training are able to receive a certification or license described in subparagraph (B) from a State.

(D) The Secretary shall publish on the Internet website of the Department available to the public—

(i) any guidance the Secretary gives the Secretary of Defense with respect to carrying out this section; and

(ii) any information the Secretary receives from a State pursuant to subparagraph (A).

(d) PARTICIPATION IN OTHER FEDERALLY FUNDED JOB TRAINING PROGRAMS.—The [Assistant Secretary of Labor for Veterans' Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition* shall promote and monitor participation of qualified veterans and eligible persons in employment and training opportunities under title I of the Workforce Innovation and Opportunity Act and other federally funded employment and training programs.

(e) REGIONAL ADMINISTRATORS.—(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Administrator for Veterans' Employment and Training in such region.

(2) Each such Regional Administrator shall carry out such duties as the Secretary may require to promote veterans employment and reemployment within the region that the Administrator serves.

(f) ESTABLISHMENT OF PERFORMANCE STANDARDS AND OUTCOMES MEASURES.—(1) The [Assistant Secretary of Labor for Veterans' Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition* shall establish and implement a comprehensive performance accountability system to measure the performance of employment service delivery systems, including disabled veterans' outreach program specialists and local veterans' employment representatives providing employment, training, and placement services under this chapter in a State to provide accountability of that State to the Secretary for purposes of subsection (c).

(2) Such standards and measures shall—

(A) be consistent with State performance accountability measures applicable under section 116(b) of the Workforce Innovation and Opportunity Act; and

(B) be appropriately weighted to provide special consideration for placement of (i) veterans requiring intensive services (as defined in section 4101(9) of this title), such as special disabled veterans and disabled veterans, and (ii) veterans who enroll in readjustment counseling under section 1712A of this title.

(g) AUTHORITY TO PROVIDE TECHNICAL ASSISTANCE TO STATES.—The Secretary may provide such technical assistance as the Secretary determines appropriate to any State that the Secretary determines has, or may have, an entered-employment rate in the State that is deficient, as determined under subsection (c)(3) with respect to a program year, including assistance in the development of a corrective action plan under that subsection.

(h) CONSOLIDATION OF DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND VETERANS' EMPLOYMENT REPRESENTATIVES.—The Secretary may allow the Governor of a State receiving funds under subsection (b)(5) to support specialists and representatives as described in such subsection to consolidate the functions of such specialists and representatives if—

(1) the Governor determines, and the Secretary concurs, that such consolidation—

- (A) promotes a more efficient administration of services to veterans with a particular emphasis on services to disabled veterans; and
- (B) does not hinder the provision of services to veterans and employers; and
- (2) the Governor submits to the Secretary a proposal therefor at such time, in such manner, and containing such information as the Secretary may require.

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#### **§ 4105. Cooperation of Federal agencies**

(a) All Federal agencies shall furnish the Secretary such records, statistics, or information as the Secretary may deem necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment and training opportunities for eligible veterans and eligible persons.

(b) For the purpose of assisting the Secretary [and the Secretary of Veterans Affairs] in identifying employers with potential job training opportunities under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) and otherwise in order to carry out this chapter, the Secretary of Defense shall, on the 15th day of each month, provide the Secretary [and the Secretary of Veterans Affairs] with updated information regarding any list maintained by the Secretary of Defense of employers participating in the National Committee for Employer Support of the Guard and Reserve.

#### **§ 4106. Estimate of funds for administration; authorization of appropriations**

(a) The Secretary shall estimate the funds necessary for the proper and efficient administration of this chapter and chapters 42 and 43 of this title. Such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the [Department of Labor] *Department*. Estimated funds necessary for proper intensive services, placement, and training services to eligible veterans and eligible persons provided by the various State public employment service agencies shall each be separately identified in the budgets of those agencies as approved by the [Department of Labor] *Department*. Funds estimated pursuant to the first sentence of this subsection shall include amounts necessary in all of the States for the purposes specified in paragraph (5) of section 4102A(b) of this title and to fund the National Veterans' Employment and Training Services Institute under section 4109 of this title and shall be approved by the Secretary only if the level of funding proposed is in compliance with such sections. Each budget submission with respect to such funds shall include a separate listing of the amount for the National Veterans' Employment and Training Services Institute together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.

(b) There are authorized to be appropriated such sums as may be necessary for the proper and efficient administration of this chapter.

(c) In the event that the regular appropriations Act making appropriations for administrative expenses for the [Department of Labor] *Department* with respect to any fiscal year does not specify an amount for the purposes specified in subsection (b) of this section for that fiscal year, then of the amounts appropriated in such Act there shall be available only for the purposes specified in subsection (b) of this section such amount as was set forth in the budget estimate submitted pursuant to subsection (a) of this section.

(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections.

**§ 4107. Administrative controls; annual report**

(a) The Secretary shall establish administrative controls for the following purposes:

(1) To insure that each eligible veteran, especially veterans of the Vietnam era and disabled veterans, and each eligible person who requests assistance under this chapter shall promptly be placed in a satisfactory job or job training opportunity or receive some other specific form of assistance designed to enhance such veteran's and eligible person's employment prospects substantially, such as individual job development or intensive services.

(2) To determine whether or not the employment service agencies in each State have committed the necessary staff to insure that the provisions of this chapter are carried out; and to arrange for necessary corrective action where staff resources have been determined by the Secretary to be inadequate.

(b) The Secretary shall apply performance standards established under section 4102A(f) of this title for determining compliance by the State public employment service agencies with the provisions of this chapter and chapter 42 of this title. Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the performance of States and organizations and entities carrying out employment, training, and placement services under this chapter, as measured under subsection (b)(7) of section 4102A of this title. In the case of a State that the Secretary determines has not met the minimum standard of performance (established by the Secretary under subsection (f) of such section), the Secretary shall include an analysis of the extent and reasons for the State's failure to meet that minimum standard, together with the State's plan for corrective action during the succeeding year.

(c) Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the success during the preceding program year of the [Department of Labor] *Department* and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of eligible veterans and eligible persons. The report shall include—

(1) specification, by State and by age group, of the numbers of eligible veterans, disabled veterans, special disabled veterans, eligible persons, recently separated veterans (as defined in section 4211(6) of this title), and servicemembers transitioning to civilian careers who registered for assistance with, or who are identified as veterans by, the public employment service system and, for each of such categories, the numbers referred to and placed in permanent and other jobs, the numbers referred to and placed in jobs and job training programs supported by the Federal Government, the number who received intensive services, and the number who received some, and the number who received no, reportable service;

(2) a comparison of the rate of entered employment (as determined in a manner consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998) for each of the categories of veterans and persons described in paragraph (1) of this subsection with such rate of entered employment (as so determined) for nonveterans of the same age groups registered for assistance with the public employment system in each State;

(3) any determination made by the Secretary during the preceding fiscal year under section 4106 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination;

(4) a report on activities carried out during the preceding program year under section 4212(d) of this title;

(5) a report on the operation during the preceding program year of programs for the provision of employment and training services designed to meet the needs of eligible veterans and eligible persons, including an evaluation of the effectiveness of such programs during such program year in meeting the requirements of section 4102A(b) of this title, the efficiency with which services were provided through such programs during such year, and such recommendations for further legislative action relating to veterans' employment and training as the Secretary considers appropriate;

(6) a report on the operation during the preceding program year of the program of performance incentive awards for quality employment services under section 4112 of this title; and

(7) performance measures for the provision of assistance under this chapter, including—

(A) the percentage of participants in programs under this chapter who find employment before the end of the first 90-day period following their completion of the program;

(B) the percentage of participants described in subparagraph (A) who are employed during the first 180-day period following the period described in such subparagraph;

(C) the median earnings of participants described in subparagraph (A) during the period described in such subparagraph;

(D) the median earnings of participants described in subparagraph (B) during the period described in such subparagraph; and

(E) the percentage of participants in programs under this chapter who obtain a certificate, degree, diploma, licensure, or industry-recognized credential relating to the program in which they participated under this chapter during the third 90-day period following their completion of the program.

**【§ 4108. Cooperation and coordination**

[(a) In carrying out the Secretary's responsibilities under this chapter, the Secretary shall from time to time consult with the Secretary of Veterans Affairs and keep the Secretary of Veterans Affairs fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Department of Veterans Affairs.

[(b) The Secretary of Veterans Affairs shall provide to appropriate employment service offices and Department of Labor offices, as designated by the Secretary, on a monthly or more frequent basis, the name and address of each employer located in the areas served by such offices that offer a program of job training which has been approved by the Secretary of Veterans Affairs under section 7 of the Veterans' Job Training Act (29 U.S.C. 1721 note).]

\* \* \* \* \*

**§ 4110. Advisory Committee on Veterans Employment, Training, and Employer Outreach**

(a)(1) There is hereby established within the [Department of Labor] *Department* an advisory committee to be known as the Advisory Committee on Veterans Employment, Training, and Employer Outreach.

(2) The advisory committee shall—

(A) assess the employment and training needs of veterans and their integration into the workforce;

(B) determine the extent to which the programs and activities of the [Department of Labor] *Department* are meeting such needs;

(C) assist the [Assistant Secretary of Labor for Veterans' Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition* in carrying out outreach activities to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans;

(D) make recommendations to the Secretary, through the [Assistant Secretary of Labor for Veterans' Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition*, with respect to outreach activities and the employment and training of veterans; and

(E) carry out such other activities that are necessary to make the reports and recommendations referred to in subsection (f) of this section.

(b) The [Secretary of Labor] *Secretary* shall, on a regular basis, consult with and seek the advice of the advisory committee with respect to the matters referred to in subsection (a)(2) of this section.

(c)(1) The **【Secretary of Labor】** *Secretary* shall appoint at least 12, but no more than 16, individuals to serve as members of the advisory committee as follows:

(A) Seven individuals, one each from among representatives nominated by each of the following organizations:

(i) The National Society of Human Resource Managers.

(ii) The Business Roundtable.

(iii) The National Association of State Workforce Agencies.

(iv) The United States Chamber of Commerce.

(v) The National Federation of Independent Business.

(vi) A nationally recognized labor union or organization.

(vii) The National Governors Association.

(B) Not more than five individuals from among representatives nominated by veterans service organizations that have a national employment program.

(C) Not more than five individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the **【Department of Labor】** *Department*.

(2) A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

(d) The following, or their representatives, shall be ex officio, nonvoting members of the advisory committee:

**【(1) The Secretary of Veterans Affairs.】**

**【(2) (1) The Secretary of Defense.】**

**【(3) (2) The Director of the Office of Personnel Management.】**

**【(4) (3) The Assistant **【Secretary of Labor】** *Secretary* for Veterans Employment and Training.】**

**【(5) (4) The Assistant **【Secretary of Labor】** *Secretary* for Employment and Training.】**

**【(6) (5) The Administrator of the Small Business Administration.】**

(e)(1) The advisory committee shall meet at least quarterly.

(2) The **【Secretary of Labor】** *Secretary* shall appoint the chairman of the advisory committee who shall serve in that position for no more than 2 consecutive years.

(3)(A) Members of the advisory committee shall serve without compensation.

(B) Members of the advisory committee shall be allowed reasonable and necessary travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service in accordance with the provisions of subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of the responsibilities of the advisory committee.

(4) The **【Secretary of Labor】** *Secretary* shall provide staff and administrative support to the advisory committee through the Veterans Employment and Training Service.

(f)(1) Not later than December 31 of each year, the advisory committee shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the employment and training needs of veterans, with special

emphasis on disabled veterans, for the previous fiscal year. Each such report shall contain—

(A) an assessment of the employment and training needs of veterans and their integration into the workforce;

(B) an assessment of the outreach activities carried out by the [Secretary of Labor] *Secretary* to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans;

(C) an evaluation of the extent to which the programs and activities of the [Department of Labor] *Department* are meeting such needs;

(D) a description of the activities of the advisory committee during that fiscal year;

(E) a description of activities that the advisory committee proposes to undertake in the succeeding fiscal year; and

(F) any recommendations for legislation, administrative action, and other action that the advisory committee considers appropriate.

(2) In addition to the annual reports made under paragraph (1), the advisory committee may make recommendations to the [Secretary of Labor] *Secretary* with respect to the employment and training needs of veterans at such times and in such manner as the advisory committee determines appropriate.

(g) Within 60 days after receiving each annual report referred to in subsection (f)(1), the [Secretary of Labor] *Secretary* shall transmit to Congress a copy of the report together with any comments concerning the report that the Secretary considers appropriate.

(h) The advisory committee shall continue until terminated by law.

#### **§ 4110A. Special unemployment study**

(a)(1) The Secretary, through the Bureau of Labor Statistics, shall conduct an annual study of unemployment among each of the following categories of veterans:

(A) Veterans who were called to active duty while members of the National Guard or a Reserve Component.

(B) Veterans who served in combat or in a war zone in the Post 9/11 Global Operations theaters.

(C) Veterans who served on active duty during the Post 9/11 Global Operations period who did not serve in the Post 9/11 Global Operations theaters.

(D) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.

(E) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.

(F) Veterans discharged or released from active duty within four years of the applicable study.

(G) Special disabled veterans.

(2) Within each of the categories of veterans specified in paragraph (1), the Secretary shall include a separate category for women who are veterans.

(b) The Secretary shall promptly submit to [Congress] *the Committees on Veterans' Affairs of the Senate and House of Representatives* a report on the results of each study under subsection (a).

(c) In this section:

(1) The term “Post 9/11 Global Operations period” means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or law.

(2) The term “Post 9/11 Global Operations theaters” means Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.

\* \* \* \* \*

**§ 4112. Performance incentive awards for quality employment, training, and placement services**

(a) CRITERIA FOR PERFORMANCE INCENTIVE AWARDS.—(1) For purposes of carrying out a program of performance incentive awards under section 4102A(c)(2)(A)(i)(III) of this title, the Secretary, acting through the [Assistant Secretary of Labor for Veterans’ Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition*, shall establish criteria for performance incentive awards programs to be administered by States to—

(A) encourage the improvement and modernization of employment, training, and placement services provided under this chapter; and

(B) recognize eligible employees and employment service offices for excellence in the provision of such services or for having made demonstrable improvements in the provision of such services.

(2) The Secretary shall establish such criteria in consultation with representatives of States, political subdivisions of States, and other providers of employment, training, and placement services under the Workforce Investment Act of 1998 consistent with the performance measures established under section 4102A(b)(7) of this title.

(b) FORM OF AWARDS.—Under the criteria established by the Secretary for performance incentive awards to be administered by States, an award under such criteria may be a cash award or such other nonfinancial awards as the Secretary may specify.

(c) ADMINISTRATION AND USE OF AWARDS.—Performance incentive cash awards under this section—

(1) shall be made from amounts allocated from the grant or contract amount for a State for a program year under section 4102A(c)(7) of this title;

(2) in the case of such an award made to an eligible employee, shall be in addition to the regular pay of the recipient; and

(3) in the case of such an award made to an employment service office, may be used by that employment service office for any purpose.

(d) ELIGIBLE EMPLOYEE DEFINED.—In this section, the term “eligible employee” means any of the following:

(1) A disabled veterans’ outreach program specialist.

(2) A local veterans’ employment representative.

(3) An individual providing employment, training, and placement services to veterans under the Workforce Investment Act

of 1998 or through an employment service delivery system (as defined in section 4101(7) of this title).

\* \* \* \* \*

**§ 4114. Credentialing and licensure of veterans: demonstration project**

(a) DEMONSTRATION PROJECT AUTHORIZED.—The [Assistant Secretary for Veterans' Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition* 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 for Veterans' Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition* shall, in consultation with the [Assistant Secretary for Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition*, select not more than five military occupational specialties for purposes of the demonstration project. Each specialty so selected by the [Assistant Secretary for Veterans' Employment and Training] *Deputy Under Secretary for Employment, Training, and Transition* shall require a skill or set of skills that is required for civilian employment in an industry with high growth or high worker demand.

(2) The [Assistant Secretary] *Deputy Under Secretary* shall enter into a contract with an appropriate entity representing a coalition of State governors to consult with appropriate Federal, State, and industry officials and identify requirements for credentials, certifications, and licenses that require a skill or set of skills required by a military occupational specialty selected under paragraph (1).

(3) The [Assistant Secretary] *Deputy Under Secretary* shall analyze the requirements identified under paragraph (2) to determine which requirements may be satisfied by the skills, training, or experience acquired by members of the Armed Forces with the military occupational specialties selected under paragraph (1).

(c) ELIMINATION OF BARRIERS TO CREDENTIALING AND LICENSURE.—The [Assistant Secretary] *Deputy Under Secretary* shall cooperate with appropriate Federal, State, and industry officials to reduce or eliminate any barriers to providing a credential, certification, or license to a veteran who acquired any skill, training, or experience while serving as a member of the Armed Forces with a military occupational specialty selected under subsection (b)(1) that satisfies the Federal and State requirements for the credential, certification, or license.

(d) PERIOD OF PROJECT.—The period during which the [Assistant Secretary] *Deputy Under 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 VOW to Hire Heroes Act of 2011.

**§4115. Longitudinal study of job counseling, training, and placement service for veterans**

(a) *STUDY REQUIRED.*—(1) *The Secretary shall enter into a contract with a non-government entity to conduct a longitudinal study of a statistically valid sample of each of the groups of individuals described in paragraph (2). The contract shall provide for the study of each such group over a period of at least five years.*

(2) *The groups of individuals described in this paragraph are the following:*

(A) *Veterans who have received intensive services.*

(B) *Veterans who did not receive intensive services but who otherwise received services under this chapter.*

(C) *Veterans who did not seek or receive services under this chapter.*

(3) *The study required by this subsection shall include the collection of the following information for each individual who participates in the study:*

(A) *The average number of months such individual served on active duty.*

(B) *The distribution of disability ratings of such individual.*

(C) *Any unemployment benefits received by such individual.*

(D) *The average number of months such individual was employed during the year covered by the report.*

(E) *The average annual starting and ending salaries of any such individual who was employed during the year covered by the report.*

(F) *The average annual income of such individual.*

(G) *The average total household income of such individual for the year covered by the report.*

(H) *The percentage of such individuals who own their principal residences.*

(I) *The employment status of such individual.*

(J) *In the case of such an individual who received services under this chapter, whether the individual believes that any service provided by a disabled veterans' outreach specialist or local veterans' employment representative helped the individual to become employed.*

(K) *In the case of such an individual who believes such a service helped the individual to become employed, whether—*

(i) *the individual retained the position of employment for a period of one year or longer; and*

(ii) *the individual believes such a service helped the individual to secure a higher wage or salary.*

(L) *The conditions under which such individual was discharged or released from the Armed Forces.*

(M) *Whether such individual has used any educational assistance to which the individual is entitled under this title.*

(N) *Whether such individual has participated in a rehabilitation program under chapter 31 of this title.*

(O) *Demographic information about such individual.*

(P) *Such other information as the Secretary determines appropriate.*

(b) *ANNUAL REPORTS.*—(1) *By not later than July 1 of each year covered by the study required under subsection (a), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate*

and House of Representatives a report on the outcomes of the study during the preceding year.

(2) The Secretary shall include in each annual report submitted under paragraph (1) any information the Secretary determines is necessary to determine the long-term outcomes of the individuals in the groups described in subsection (a)(2).

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**CHAPTER 42—EMPLOYMENT AND TRAINING OF VETERANS**

\* \* \* \* \*

**§ 4211. Definitions**

As used in this chapter—

(1) The term “special disabled veteran” means—

(A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary for a disability (i) rated at 30 percent or more, or (ii) rated at 10 or 20 percent in the case of a veteran who has been determined under section 3106 of this title to have a serious employment handicap; or

(B) a person who was discharged or released from active duty because of service-connected disability.

(2) The term “veteran of the Vietnam era” means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

(3) The term “disabled veteran” means (A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary, or (B) a person who was discharged or released from active duty because of a service-connected disability.

(4) The term “eligible veteran” means a person who—

(A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge;

(B) was discharged or released from active duty because of a service-connected disability;

(C) as a member of a reserve component under an order to active duty pursuant to section 12301(a), (d), or (g), 12302, or 12304 of title 10, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge; or

(D) was discharged or released from active duty by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).

(5) The term “department or agency” means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5 and the United States Postal Service and the Postal Regulatory Commission, and the term “department, agency, or instrumentality in the executive branch” includes the United States Postal Service and the Postal Regulatory Commission.

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

**§ 4212. Veterans’ employment emphasis under Federal contracts**

(a)(1) Any contract in the amount of \$100,000 or more entered into by any department or agency of the United States for the procurement of personal property and nonpersonal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States take affirmative action to employ and advance in employment qualified covered veterans. This section applies to any subcontract in the amount of \$100,000 or more entered into by a prime contractor in carrying out any such contract.

(2) In addition to requiring affirmative action to employ such qualified covered veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the [Secretary of Labor] *Secretary* shall prescribe regulations requiring that—

(A) each such contractor for each such contract shall immediately list all of its employment openings with the appropriate employment service delivery system (as defined in section 4101(7) of this title), and may also list such openings with one-stop career centers under the Workforce Investment Act of 1998, other appropriate service delivery points, or America’s Job Bank (or any additional or subsequent national electronic job bank established by the [Department of Labor] *Department*), except that the contractor may exclude openings for executive and senior management positions and positions which are to be filled from within the contractor’s organization and positions lasting three days or less;

(B) each such employment service delivery system shall give such qualified covered veterans priority in referral to such employment openings; and

(C) each such employment service delivery system shall provide a list of such employment openings to States, political subdivisions of States, or any private entities or organizations under contract to carry out employment, training, and placement services under chapter 41 of this title.

(3) In this section:

(A) The term “covered veteran” means any of the following veterans:

(i) Disabled veterans.

(ii) Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized.

(iii) Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order No. 12985 (61 Fed. Reg. 1209).

(iv) Recently separated veterans.

(B) The term “qualified”, with respect to an employment position, means having the ability to perform the essential func-

tions of the position with or without reasonable accommodation for an individual with a disability.

(b) If any special disabled veteran or veteran of the Vietnam era believes any contractor of the United States has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the [Secretary of Labor] *Secretary*, who shall promptly investigate such complaint and take appropriate action in accordance with the terms of the contract and applicable laws and regulations.

(c) The [Secretary of Labor] *Secretary* shall include as part of the annual report required by section 4107(c) of this title the number of complaints filed pursuant to subsection (b) of this section, the actions taken thereon and the resolutions thereof. Such report shall also include the number of contractors listing employment openings, the nature, types, and number of positions listed and the number of veterans receiving priority pursuant to subsection (a)(2)(B).

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

(A) the number of employees in the workforce of such contractor, by job category and hiring location, and the number of such employees, by job category and hiring location, who are qualified covered veterans;

(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are qualified covered veterans; and

(C) the maximum number and the minimum number of employees of such contractor during the period covered by the report.

(2) The [Secretary of Labor] *Secretary* shall ensure that the administration of the reporting requirement under paragraph (1) is coordinated with respect to any requirement for the contractor to make any other report to the [Secretary of Labor] *Secretary*.

(3) The [Secretary of Labor] *Secretary* shall establish and maintain an Internet website on which the [Secretary of Labor] *Secretary* shall publicly disclose the information reported to the [Secretary of Labor] *Secretary* by contractors under paragraph (1).

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**§ 4214. Employment within the Federal Government**

(a)(1) The United States has an obligation to assist veterans of the Armed Forces in readjusting to civilian life. The Federal Government is also continuously concerned with building an effective work force, and veterans constitute a uniquely qualified recruiting source. It is, therefore, the policy of the United States and the purpose of this section to promote the maximum of employment and job advancement opportunities within the Federal Government for qualified covered veterans (as defined in paragraph (2)(B)) who are qualified for such employment and advancement.

(2) In this section:

(A) The term “agency” has the meaning given the term “department or agency” in section 4211(5) of this title.

(B) The term “qualified covered veteran” means a veteran described in section 4212(a)(3) of this title.

(b)(1) To further the policy stated in subsection (a) of this section, veterans referred to in paragraph (2) of this subsection shall be eligible, in accordance with regulations which the Office of Personnel Management shall prescribe, for veterans recruitment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that—

(A) such an appointment may be made up to and including the level GS-11 or its equivalent;

(B) a veteran shall be eligible for such an appointment without regard to the number of years of education completed by such veteran;

(C) a veteran who is entitled to disability compensation under the laws administered by the Department of Veterans Affairs or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be given a preference for such an appointment over other veterans;

(D) a veteran receiving such an appointment shall—

(i) in the case of a veteran with less than 15 years of education, receive training or education; and

(ii) upon successful completion of the prescribed probationary period, acquire a competitive status; and

(E) a veteran given an appointment under the authority of this subsection whose employment under the appointment is terminated within one year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment.

(2) This subsection applies to qualified covered veterans.

(3) A qualified covered veteran may receive such an appointment at any time.

(c) Each agency shall include in its affirmative action plan for the hiring, placement, and advancement of handicapped individuals in such agency as required by section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)), a separate specification of plans (in accordance with regulations which the Office of Personnel Management shall prescribe in consultation with the Secretary, the [Secretary of Labor] *Secretary*, and the Secretary of Health and Human Services, consistent with the purposes, provisions, and priorities of such Act) to promote and carry out such affirmative action with respect to disabled veterans in order to achieve the purpose of this section.

(d) The Office of Personnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each agency to carry out the purpose and provisions of this section. The Office shall periodically obtain (on at least an annual basis) information on the implementation of this section by each agency and on the activities of each agency to carry out the purpose and provisions of this section. The information obtained shall include specification of the use and extent of appointments made by each agency under subsection (b) of this section and

the results of the plans required under subsection (c) of this section.

(e)(1) The Office of Personnel Management shall submit to the Congress annually a report on activities carried out under this section. Each such report shall include the following information with respect to each agency:

(A) The number of appointments made under subsection (b) of this section since the last such report and the grade levels in which such appointments were made.

(B) The number of individuals receiving appointments under such subsection whose appointments were converted to career or career-conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

(C) The number of such terminations since the last such report that were initiated by the agency involved and the number of such terminations since the last such report that were initiated by the individual involved.

(D) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.

(2) Information shown for an agency under clauses (A) through (D) of paragraph (1) of this subsection—

(A) shall be shown for all veterans; and

(B) shall be shown separately (i) for veterans who are entitled to disability compensation under the laws administered by the Secretary or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty, and (ii) for other veterans.

(f) Notwithstanding section 4211 of this title, the terms “veteran” and “disabled veteran” as used in subsection (a) of this section shall have the meaning provided for under generally applicable civil service law and regulations.

(g) To further the policy stated in subsection (a) of this section, the Secretary may give preference to qualified covered veterans for employment in the Department as veterans’ benefits counselors and veterans’ claims examiners and in positions to provide the outreach services required under section 6303 of this title, to serve as veterans’ representatives at certain educational institutions as provided in section 6305 of this title, or to provide readjustment counseling under section 1712A of this title.

**§ 4215. Priority of service for veterans in Department of Labor job training programs**

(a) DEFINITIONS.—In this section:

(1) The term “covered person” means any of the following individuals:

(A) A veteran.

(B) The spouse of any of the following individuals:

(i) Any veteran who died of a service-connected disability.

(ii) Any member of the Armed Forces serving on active duty who, at the time of application for assistance under this section, is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than 90 days: (I) missing in action, (II) captured in line of duty by a hostile force, or (III) forcibly detained or interned in line of duty by a foreign government or power.

(iii) Any veteran who has a total disability resulting from a service-connected disability.

(iv) Any veteran who died while a disability so evaluated was in existence.

(2) The term “qualified job training program” means any workforce preparation, development, or delivery program or service that is directly funded, in whole or in part, by the [Department of Labor] *Department* and includes the following:

(A) Any such program or service that uses technology to assist individuals to access workforce development programs (such as job and training opportunities, labor market information, career assessment tools, and related support services).

(B) Any such program or service under the public employment service system, one-stop career centers, the Workforce Investment Act of 1998, a demonstration or other temporary program, and those programs implemented by States or local service providers based on Federal block grants administered by the [Department of Labor] *Department*.

(C) Any such program or service that is a workforce development program targeted to specific groups.

(3) The term “priority of service” means, with respect to any qualified job training program, that a covered person shall be given priority over nonveterans for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of law. Such priority includes giving access to such services to a covered person before a non-covered person or, if resources are limited, giving access to such services to a covered person instead of a non-covered person.

(b) ENTITLEMENT TO PRIORITY OF SERVICE.—(1) A covered person is entitled to priority of service under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such program.

(2) The [Secretary of Labor] *Secretary* may establish priorities among covered persons for purposes of this section to take into account the needs of disabled veterans and special disabled veterans, and such other factors as the Secretary determines appropriate.

(c) ADMINISTRATION OF PROGRAMS AT STATE AND LOCAL LEVELS.—An entity of a State or a political subdivision of the State that administers or delivers services under a qualified job training program shall—

(1) provide information and priority of service to covered persons regarding benefits and services that may be obtained through other entities or service providers; and

(2) ensure that each covered person who applies to or who is assisted by such a program is informed of the employment-related rights and benefits to which the person is entitled under this section.

(d) ADDITION TO ANNUAL REPORT.—(1) In the annual report required under section 4107(c) of this title for the program year beginning in 2003 and each subsequent program year, the [Secretary of Labor] *Secretary* shall evaluate whether covered persons are receiving priority of service and are being fully served by qualified job training programs. Such evaluation shall include—

(A) an analysis of the implementation of providing such priority at the local level;

(B) whether the representation of veterans in such programs is in proportion to the incidence of representation of veterans in the labor market, including within groups that the Secretary may designate for priority under such programs, if any; and

(C) performance measures, as determined by the Secretary, to determine whether veterans are receiving priority of service and are being fully served by qualified job training programs.

(2) The Secretary may not use the proportion of representation of veterans described in subparagraph (B) of paragraph (1) as the basis for determining under such paragraph whether veterans are receiving priority of service and are being fully served by qualified job training programs.

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**CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES**

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**SUBCHAPTER I—GENERAL**

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**§ 4303. Definitions**

For the purposes of this chapter—

(1) The term “Attorney General” means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

(2) The term “benefit”, “benefit of employment”, or “rights and benefits” means the terms, conditions, or privileges of employment, including any advantage, profit, privilege, gain, status, account, or interest (including wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

(3) The term “employee” means any person employed by an employer. Such term includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace in a foreign country by an employer that is an entity incorporated or otherwise organized in the United States or that is controlled by an entity organized in the United States, within the meaning of section 4319(c) of this title.

(4)(A) Except as provided in subparagraphs (B) and (C), the term “employer” means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

(ii) the Federal Government;

(iii) a State;

(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

(B) In the case of a National Guard technician employed under section 709 of title 32, the term “employer” means the adjutant general of the State in which the technician is employed.

(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4318.

(D)(i) Whether the term “successor in interest” applies with respect to an entity described in subparagraph (A) for purposes of clause (iv) of such subparagraph shall be determined on a case-by-case basis using a multi-factor test that considers the following factors:

(I) Substantial continuity of business operations.

(II) Use of the same or similar facilities.

(III) Continuity of work force.

(IV) Similarity of jobs and working conditions.

(V) Similarity of supervisory personnel.

(VI) Similarity of machinery, equipment, and production methods.

(VII) Similarity of products or services.

(ii) The entity’s lack of notice or awareness of a potential or pending claim under this chapter at the time of a merger, acquisition, or other form of succession shall not be considered when applying the multi-factor test under clause (i).

(5) The term “Federal executive agency” includes the United States Postal Service, the Postal Regulatory Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5, and any military department (as

that term is defined in section 102 of title 5) with respect to the civilian employees of that department.

(6) The term “Federal Government” includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

(7) The term “health plan” means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(8) The term “notice” means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

(9) The term “qualified”, with respect to an employment position, means having the ability to perform the essential tasks of the position.

(10) The term “reasonable efforts”, in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

【(11) Notwithstanding section 101, the term “Secretary” means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.】

(12) The term “seniority” means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

(13) The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

(14) The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

(15) The term “undue hardship”, in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

(A) the nature and cost of the action needed under this chapter;

(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

(16) The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

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SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

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**§ 4317. Health plans**

(a)(1) In any case in which a person (or the person’s dependents) has coverage under a health plan in connection with the person’s position of employment, including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), and such person is absent from such position of employment by reason of service in the uniformed services, or such person becomes eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title, the plan shall provide that the person may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and the person’s dependents under such an election shall be the lesser of—

(A) the 24-month period beginning on the date on which the person’s absence begins; or

(B) the day after the date on which the person fails to apply for or return to a position of employment, as determined under section 4312(e).

(2) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium under the plan (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986) associated with such coverage for the employer’s other employees, except that in the case of a person who performs service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

(3) In the case of a health plan that is a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated—

(A) by the plan in such manner as the plan sponsor shall provide; or

- (B) if the sponsor does not provide—
  - (i) to the last employer employing the person before the period served by the person in the uniformed services, or
  - (ii) if such last employer is no longer functional, to the plan.

(b)(1) Except as provided in paragraph (2), in the case of a person whose coverage under a health plan was terminated by reason of service in the uniformed services, or by reason of the person's having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment under this chapter if an exclusion or waiting period would not have been imposed under a health plan had coverage of such person by such plan not been terminated as a result of such service or eligibility. This paragraph applies to the person who is reemployed and to any individual who is covered by such plan by reason of the reinstatement of the coverage of such person.

(2) Paragraph (1) shall not apply to the coverage of any illness or injury determined by the [Secretary of Veterans Affairs] *Secretary* to have been incurred in, or aggravated during, performance of service in the uniformed services.

(3) In the case of a person whose coverage under a health plan is terminated by reason of the person having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title but who subsequently does not commence a period of active duty under the order to active duty that established such eligibility because the order is canceled before such active duty commences, the provisions of paragraph (1) relating to any exclusion or waiting period in connection with the reinstatement of coverage under a health plan shall apply to such person's continued employment, upon the termination of such eligibility for medical and dental care under chapter 55 of title 10 that is incident to the cancellation of such order, in the same manner as if the person had become reemployed upon such termination of eligibility.

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SUBCHAPTER III—PROCEDURES FOR ASSISTANCE,  
ENFORCEMENT, AND INVESTIGATION

**§ 4321. Assistance in obtaining reemployment or other employment rights or benefits**

The Secretary [(through the Veterans' Employment and Training Service)] shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

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SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

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### § 4332. Reports

(a) ANNUAL REPORT BY SECRETARY.—The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4324(a)(1), transmit to Congress not later than July 1 each year a report on matters for the fiscal year ending in the year before the year in which such report is transmitted as follows:

(1) The number of cases reviewed by the Department [of Labor] under this chapter during the fiscal year for which the report is made.

(2) The number of cases reviewed by the Secretary of Defense under the National Committee for Employer Support of the Guard and Reserve of the Department of Defense during the fiscal year for which the report is made.

(3) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4323 or 4324, respectively, during such fiscal year and the number of actions initiated by the Office of Special Counsel before the Merit Systems Protection Board pursuant to section 4324 during such fiscal year.

(4) The number of complaints filed by the Attorney General pursuant to section 4323 during such fiscal year.

(5) The number of cases reviewed by the Secretary and the Secretary of Defense through the National Committee for Employer Support of the Guard and Reserve of the Department of Defense that involve the same person.

(6) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5)—

(A) the number of such cases that involve a disability-related issue; and

(B) the number of such cases that involve a person who has a service-connected disability.

(7) The nature and status of each case reported on pursuant to paragraph (1), (2), (3), (4), or (5).

(8) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5) the number of such cases that involve persons with different occupations or persons seeking different occupations, as designated by the Standard Occupational Classification System.

(9) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

(10) Recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter, including any action that could be taken to encourage mediation, before claims are filed under this chapter, between employers and persons seeking employment or reemployment.

(b) QUARTERLY REPORTS.—

(1) QUARTERLY REPORT BY SECRETARY.—Not later than 30 days after the end of each fiscal quarter, the Secretary shall submit to Congress, the Secretary of Defense, the Attorney General, and the Special Counsel a report setting forth, for the previous full quarter, the following:

(A) The number of cases for which the Secretary did not meet the requirements of section 4322(f) of this title.

(B) The number of cases for which the Secretary received a request for a referral under paragraph (1) of section 4323(a) of this title but did not make such referral within the time period required by such paragraph.

(2) QUARTERLY REPORT BY ATTORNEY GENERAL.—Not later than 30 days after the end of each fiscal quarter, the Attorney General shall submit to Congress, the Secretary, the Secretary of Defense, and the Special Counsel a report setting forth, for the previous full quarter, the number of cases for which the Attorney General received a referral under paragraph (1) of section 4323(a) of this title but did not meet the requirements of paragraph (2) of section 4323(a) of this title for such referral.

(3) QUARTERLY REPORT BY SPECIAL COUNSEL.—Not later than 30 days after the end of each fiscal quarter, the Special Counsel shall submit to Congress, the Secretary, the Secretary of Defense, and the Attorney General a report setting forth, for the previous full quarter, the number of cases for which the Special Counsel received a referral under paragraph (1) of section 4324(a) of this title but did not meet the requirements of paragraph (2)(B) of section 4324(a) of this title for such referral.

(c) UNIFORM CATEGORIZATION OF DATA.—The Secretary shall coordinate with the Secretary of Defense, the Attorney General, and the Special Counsel to ensure that—

(1) the information in the reports required by this section is categorized in a uniform way; and

(2) the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel each have electronic access to the case files reviewed under this chapter by the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel with due regard for the provisions of section 552a of title 5.

**§ 4333. Outreach**

The Secretary<sup>1</sup>, the Secretary of Defense, and the Secretary of Veterans Affairs<sup>2</sup> and the Secretary of Defense shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and such employers under this chapter.

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**PART IV—GENERAL ADMINISTRATIVE PROVISIONS**

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**CHAPTER 63—OUTREACH ACTIVITIES**

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**§ 6306. Use of other agencies**

(a) In carrying out this chapter, the Secretary [shall arrange with the Secretary of Labor for the State employment service to match] *shall ensure that the State employment service matches* the particular qualifications of an eligible veteran or eligible dependent with an appropriate job or job training opportunity, including, where possible, arrangements for outstationing the State employment personnel who provide such assistance at appropriate facilities of the Department.

(b) In carrying out this chapter, the Secretary shall [in consultation with the Secretary of Labor,] actively seek to promote the development and establishment of employment opportunities, training opportunities, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

(c) In carrying out this chapter, the Secretary shall cooperate with and use the services of any Federal department or agency or any State or local governmental agency or recognized national or other organization.

(d) In carrying out this chapter, the Secretary shall, where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization.

(e) In carrying out this chapter, the Secretary may furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services.

(f) In carrying out this chapter, the Secretary shall conduct and provide for studies, in consultation with appropriate Federal departments and agencies, to determine the most effective program design to carry out the purposes of this chapter.

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**PART V—BOARDS, ADMINISTRATIONS, AND SERVICES**

|            |   |             |
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| Chap.      |   | Sec.        |
| 71         | Board of Veterans' Appeals .....  | 7101        |
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| <b>80.</b> | <b><i>Veterans Economic Opportunity and Transition Administration</i></b> | <b>8001</b> |
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**CHAPTER 73—ORGANIZATION AND FUNCTIONS**

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SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

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|---------------|---|
|               | * * * * *                                       |
| <i>7330B.</i> | <i>Comptroller General audit of VHA budget.</i> |
|               | * * * * *                                       |

## SUBCHAPTER I—ORGANIZATION

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**§ 7306. Office of the Under Secretary for Health**

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

(1) The Deputy Under Secretary for Health, who shall be the principal assistant of the Under Secretary for Health and who shall be a qualified doctor of medicine.

(2) The Associate Deputy Under Secretary for Health, who shall be an assistant to the Under Secretary for Health and the Deputy Under Secretary for Health and who shall be a qualified doctor of medicine.

(3) Not to exceed eight Assistant Under Secretaries for Health.

(4) Such Medical Directors as may be appointed to suit the needs of the Department, who shall be either a qualified doctor of medicine, *doctor of podiatric medicine*, or a qualified doctor of dental surgery or dental medicine.

(5) A Director of Nursing Service, who shall be a qualified registered nurse and who shall be responsible to, and report directly to, the Under Secretary for Health for the operation of the Nursing Service.

(6) A Director of Pharmacy Service, a Director of Dietetic Service, a Director of Podiatric Service, and a Director of Optometric Service, who shall be responsible to the Under Secretary for Health for the operation of their respective Services.

(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.

(8) The Director of the National Center for Preventive Health, who shall be responsible to the Under Secretary for Health for the operation of the Center.

(9) The Advisor on Physician Assistants, who shall be a physician assistant with appropriate experience and who shall advise the Under Secretary for Health on all matters relating to the utilization and employment of physician assistants in the Administration.

(10) Such other personnel as may be authorized by this chapter.

(b) Of the Assistant Under Secretaries for Health appointed under subsection (a)(3)—

(1) not more than two may be persons qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines;

(2) one shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Under Secretary for Health for the operation of the Dental Service; and

(3) one shall be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Under Secretary for Health for evaluating all research, educational, and clinical health-care programs carried out in the Administration in the field of geriatrics and

who shall serve as the principal advisor to the Under Secretary for Health with respect to such programs.

(c) Appointments under subsection (a) shall be made by the Secretary. In the case of appointments under paragraphs (1), (2), (3), (4), and (8) of that subsection, such appointments shall be made upon the recommendation of the Under Secretary for Health.

(d) Except as provided in subsection (e)—

(1) any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods,

(2) any such appointment or reappointment may be extended by the Secretary for a period not in excess of three years, and

(3) any person so appointed or reappointed or whose appointment or reappointment is extended shall be subject to removal by the Secretary for cause.

(e)(1) The Secretary may designate a member of the Chaplain Service of the Department as Director, Chaplain Service, for a period of two years, subject to removal by the Secretary for cause. Resignation under this subsection may be made for successive like periods or for any period not exceeding two years.

(2) A person designated as Director, Chaplain Service, shall at the end of such person's period of service as Director revert to the position, grade, and status which such person held immediately before being designated Director, Chaplain Service, and all service as Director, Chaplain Service, shall be creditable as service in the former position.

(f) In organizing the Office and appointing persons to positions in the Office, the Under Secretary shall ensure that—

(1) the Office is staffed so as to provide the Under Secretary, through a designated clinician in the appropriate discipline in each instance, with expertise and direct policy guidance on—

(A) unique programs operated by the Administration to provide for the specialized treatment and rehabilitation of disabled veterans (including blind rehabilitation, care of spinal cord dysfunction, mental illness, and long-term care); and

(B) the programs established under section 1712A of this title; and

(2) with respect to the programs established under section 1712A of this title, a clinician with appropriate expertise in those programs is responsible to the Under Secretary for the management of those programs.

#### SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

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#### **§ 7330B. Comptroller General audit of VHA budget**

(a) *IN GENERAL.*—The Comptroller General of the United States shall periodically conduct an audit of elements of the budget of the Veterans Health Administration, including the budget formulation, execution, allocation, and use of funds.

(b) *SELECTION OF ELEMENTS.*—(1) In selecting elements of the budget of the Veterans Health Administration for purposes of an

audit under subsection (a), the Comptroller General shall take into consideration—

(A) knowledge of the programs of the Veterans Health Administration;

(B) current issues;

(C) national priorities; and

(D) priorities expressed by the appropriate congressional committees.

(2) Not later than 30 days before conducting an audit under subsection (a), the Comptroller General shall submit to the appropriate congressional committees notice of the elements selected by the Comptroller General for purposes of the audit.

(c) *APPROPRIATE CONGRESSIONAL COMMITTEES.*—In this section, the term “appropriate congressional committees” means—

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

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

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**CHAPTER 74—VETERANS HEALTH ADMINISTRATION - PERSONNEL**

SUBCHAPTER I—APPOINTMENTS

Sec.

7401. Appointments in Veterans Health Administration.

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7413. Treatment of podiatrists.

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SUBCHAPTER VI—REGIONAL MEDICAL EDUCATION CENTERS

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SUBCHAPTER I—APPOINTMENTS

**§ 7401. Appointments in Veterans Health Administration**

There may be appointed by the Secretary such personnel as the Secretary may find necessary for the health care of veterans (in addition to those in the Office of the Under Secretary for Health appointed under section 7306 of this title), as follows:

(1) **Physicians, dentists, podiatrists,** *Physicians, dentists, chiropractors, optometrists, registered nurses, physician assistants, and expanded-function dental auxiliaries.*

(2) Scientific and professional personnel, such as microbiologists, chemists, and biostatisticians.

(3) Audiologists, speech pathologists, and audiologist-speech pathologists, biomedical engineers, certified or registered respiratory therapists, dietitians, licensed physical therapists, licensed practical or vocational nurses, nurse assistants, medical instrument technicians, medical records administrators or specialists, medical records technicians, medical technologists, dental hygienists, dental assistants, nuclear medicine technologists, occupational therapists, occupational therapy assist-

ants, kinesiotherapists, orthotist-prosthetists, pharmacists, pharmacy technicians, physical therapy assistants, prosthetic representatives, psychologists, diagnostic radiologic technologists, therapeutic radiologic technologists, social workers, marriage and family therapists, licensed professional mental health counselors, blind rehabilitation specialists, blind rehabilitation outpatient specialists, and such other classes of health care occupations as the Secretary considers necessary for the recruitment and retention needs of the Department subject to the following requirements:

(A) Such other classes of health care occupations—

(i) are not occupations relating to administrative, clerical, or physical plant maintenance and protective services;

(ii) that would otherwise receive basic pay in accordance with the General Schedule under section 5332 of title 5;

(iii) provide, as determined by the Secretary, direct patient care services or services incident to direct patient services; and

(iv) would not otherwise be available to provide medical care or treatment for veterans.

(B) Not later than 45 days before the Secretary appoints any personnel for a class of health care occupations that is not specifically listed in this paragraph, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate, the Committee on Veterans' Affairs of the House of Representatives, and the Office of Management and Budget notice of such appointment.

(C) Before submitting notice under subparagraph (B), the Secretary shall solicit comments from any labor organization representing employees in such class and include such comments in such notice.

#### § 7402. Qualifications of appointees

(a) To be eligible for appointment to the positions in the Administration covered by subsection (b), a person must have the applicable qualifications set forth in that subsection.

(b)(1) PHYSICIAN.—To be eligible to be appointed to a physician position, a person must—

(A) hold the degree of doctor of medicine [or of doctor of osteopathy], *doctor of osteopathy*, or *doctor of podiatric medicine* from a college or university approved by the Secretary,

(B) have completed an internship satisfactory to the Secretary, and

(C) be licensed to practice medicine, surgery, *podiatry*, or osteopathy in a State.

(2) DENTIST.—To be eligible to be appointed to a dentist position, a person must—

(A) hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Secretary, and

(B) be licensed to practice dentistry in a State.

(3) NURSE.—To be eligible to be appointed to a nurse position, a person must—

(A) have successfully completed a full course of nursing in a recognized school of nursing, approved by the Secretary, and  
 (B) be registered as a graduate nurse in a State.

[(4) DIRECTOR OF A HOSPITAL, DOMICILIARY, CENTER, OR OUTPATIENT CLINIC.—To be eligible to be appointed to a director position, a person must have such business and administrative experience and qualifications as the Secretary shall prescribe.

[(5) PODIATRIST.—To be eligible to be appointed to a podiatrist position, a person must—

[(A) hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Secretary, and

[(B) be licensed to practice podiatry in a State.]

[(6) (5) OPTOMETRIST.—To be eligible to be appointed to an optometrist position, a person must—

(A) hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Secretary, and

(B) be licensed to practice optometry in a State.

[(7) (6) PHARMACIST.—To be eligible to be appointed to a pharmacist position, a person must—

(A) hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Secretary, and

(B) be registered as a pharmacist in a State.

[(8) (7) PSYCHOLOGIST.—To be eligible to be appointed to a psychologist position, a person must—

(A) hold a doctoral degree in psychology from a college or university approved by the Secretary,

(B) have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Secretary, and

(C) be licensed or certified as a psychologist in a State, except that the Secretary may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that that psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified.

[(9) (8) SOCIAL WORKER.—To be eligible to be appointed to a social worker position, a person must—

(A) hold a master's degree in social work from a college or university approved by the Secretary; and

(B) be licensed or certified to independently practice social work in a State, except that the Secretary may waive the requirement of licensure or certification for an individual social worker for a reasonable period of time recommended by the Under Secretary for Health.

[(10) (9) MARRIAGE AND FAMILY THERAPIST.—To be eligible to be appointed to a marriage and family therapist position, a person must—

(A) hold a master's degree in marriage and family therapy, or a comparable degree in mental health, from a college or university approved by the Secretary; and

(B) be licensed or certified to independently practice marriage and family therapy in a State, except that the Secretary may waive the requirement of licensure or certification for an

individual marriage and family therapist for a reasonable period of time recommended by the Under Secretary for Health.

[(11)] (10) LICENSED PROFESSIONAL MENTAL HEALTH COUNSELOR.—To be eligible to be appointed to a licensed professional mental health counselor position, a person must—

(A) hold a master's degree in mental health counseling, or a related field, from a college or university approved by the Secretary; and

(B) be licensed or certified to independently practice mental health counseling.

[(12)] (11) CHIROPRACTOR.—To be eligible to be appointed to a chiropractor position, a person must—

(A) hold the degree of doctor of chiropractic, or its equivalent, from a college of chiropractic approved by the Secretary; and

(B) be licensed to practice chiropractic in a State.

[(13)] (12) PEER SPECIALIST.—To be eligible to be appointed to a peer specialist position, a person must—

(A) be a veteran who has recovered or is recovering from a mental health condition; and

(B) be certified by—

(i) a not-for-profit entity engaged in peer specialist training as having met such criteria as the Secretary shall establish for a peer specialist position; or

(ii) a State as having satisfied relevant State requirements for a peer specialist position.

[(14)] (13) OTHER HEALTH-CARE POSITIONS.—To be appointed as a physician assistant, expanded-function dental auxiliary, certified or registered respiratory therapist, licensed physical therapist, licensed practical or vocational nurse, occupational therapist, dietitian, microbiologist, chemist, biostatistician, medical technologist, dental technologist, or other position, a person must have such medical, dental, scientific, or technical qualifications as the Secretary shall prescribe.

(c) Except as provided in section 7407(a) of this title, a person may not be appointed in the Administration to a position listed in section 7401(1) of this title unless the person is a citizen of the United States.

(d) A person may not be appointed under section 7401(1) of this title to serve in the Administration in any direct patient-care capacity unless the Under Secretary for Health determines that the person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable the person to carry out the person's health-care responsibilities satisfactorily. Any determination by the Under Secretary for Health under this subsection shall be in accordance with regulations which the Secretary shall prescribe.

(e) A person may not serve as Chief of Staff of a Department health-care facility if the person is not serving on a full-time basis.

(f) A person may not be employed in a position under subsection (b) (other than under paragraph (4) of that subsection) if—

(1) the person is or has been licensed, registered, or certified (as applicable to such position) in more than one State; and

(2) either—

(A) any of those States has terminated such license, registration, or certification for cause; or

(B) the person has voluntarily relinquished such license, registration, or certification in any of those States after being notified in writing by that State of potential termination for cause.

(g) The Secretary may enter into contracts with not-for-profit entities to provide—

- (1) peer specialist training to veterans; and
- (2) certification for veterans under subsection (b)(13)(B)(i).

### **§ 7403. Period of appointments; promotions**

(a)(1) Appointments under this chapter of health-care professionals to whom this section applies may be made only after qualifications have been satisfactorily established in accordance with regulations prescribed by the Secretary, without regard to civil-service requirements.

(2) This section applies to the following persons appointed under this chapter:

- (A) Physicians.
- (B) Dentists.
- [(C) Podiatrists.]**
- [(D)] (C) Optometrists.**
- [(E)] (D) Nurses.**
- [(F)] (E) Physician assistants.**
- [(G)] (F) Expanded-function dental auxiliaries.**
- [(H)] (G) Chiropractors.**

(b)(1) Except as otherwise provided in this subsection, appointments described in subsection (a) shall be for a probationary period of two years.

(2) With respect to the appointment of a registered nurse under this chapter, paragraph (1) shall apply with respect to such appointment regardless of whether such appointment is on a full-time basis or a part-time basis.

(3) An appointment described in subsection (a) on a part-time basis of a person who has previously served on a full-time basis for the probationary period for the position concerned shall be without a probationary period.

(4) The record of each person serving under such an appointment in the Medical, Dental, and Nursing Services shall be reviewed from time to time by a board, appointed in accordance with regulations of the Secretary. If such a board finds that such person is not fully qualified and satisfactory, such person shall be separated from the service.

(c) Promotions of persons to whom this section applies shall be made only after examination given in accordance with regulations prescribed by the Secretary. Advancement within grade may be made in increments of the minimum rate of basic pay of the grade in accordance with regulations prescribed by the Secretary.

(d) In determining eligibility for reinstatement in the Federal civil service of persons appointed to positions in the Administration under this chapter who at the time of appointment have a civil-service status, and whose employment in the Administration is terminated, the period of service performed in the Administration

shall be included in computing the period of service under applicable civil-service rules and regulations.

(e) In accordance with regulations prescribed by the Secretary, the grade and annual rate of basic pay of a person to whom this section applies whose level of assignment is changed from a level of assignment in which the grade level is based on both the nature of the assignment and personal qualifications may be adjusted to the grade and annual rate of basic pay otherwise appropriate.

(f)(1) Upon the recommendation of the Under Secretary for Health, the Secretary may—

(A) use the authority in subsection (a) to establish the qualifications for and (subject to paragraph (2)) to appoint individuals to positions listed in section 7401(3) of this title; and

(B) use the authority provided in subsection (c) for the promotion and advancement of Department employees serving in such positions.

(2) In using such authority to appoint individuals to such positions, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, reductions-in-force, the applicability of the principles of preference referred to in paragraph (2), rights of part-time employees, disciplinary actions, and grievance procedures involving individuals appointed to such positions, whether appointed under this section or section 7405(a)(1)(B) of this title (including similar actions and procedures involving an employee in a probationary status), shall be resolved under the provisions of title 5 as though such individuals had been appointed under that title.

(g)(1) The Secretary may appoint in the competitive civil service without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title) an individual who—

(A) has a recognized degree or certificate from an accredited institution in a health-care profession or occupation; and

(B) has successfully completed a clinical education program affiliated with the Department.

(2) In using the authority provided by this subsection, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

(h)(1) If the Secretary uses the authority provided in subsection (c) for the promotion and advancement of an occupational category of employees described in section 7401(3) of this title, as authorized by subsection (f)(1)(B), the Secretary shall do so through one or more systems prescribed by the Secretary. Each such system shall be planned, developed, and implemented in collaboration with, and with the participation of, exclusive employee representatives of such occupational category of employees.

(2)(A) Before prescribing a system of promotion and advancement of an occupational category of employees under paragraph (1), the Secretary shall provide to exclusive employee representatives of such occupational category of employees a written description of the proposed system.

(B) Not later than 30 days after receipt of the description of a proposed system under subparagraph (A), exclusive employee representatives may submit to the Secretary the recommendations, if any, of such exclusive employee representatives with respect to the proposed system.

(C) The Secretary shall give full and fair consideration to any recommendations received under subparagraph (B) in deciding whether and how to proceed with a proposed system.

(3) The Secretary shall implement immediately any part of a system of promotion and advancement under paragraph (1) that is proposed under paragraph (2) for which the Secretary receives no recommendations from exclusive employee representatives under paragraph (2).

(4) If the Secretary receives recommendations under paragraph (2) from exclusive employee representatives on any part of a proposed system of promotion and advancement under that paragraph, the Secretary shall determine whether or not to accept the recommendations, either in whole or in part. If the Secretary determines not to accept all or part of the recommendations, the Secretary shall—

(A) notify the congressional veterans' affairs committees of the recommendations and of the portion of the recommendations that the Secretary has determined not to accept;

(B) meet and confer with such exclusive employee representatives, for a period not less than 30 days, for purposes of attempting to reach an agreement on whether and how to proceed with the portion of the recommendations that the Secretary has determined not to accept;

(C) at the election of the Secretary, or of a majority of such exclusive employee representatives who are participating in negotiations on such matter, employ the services of the Federal Mediation and Conciliation Service during the period referred to in subparagraph (B) for purposes of reaching such agreement; and

(D) if the Secretary determines that activities under subparagraph (B), (C), or both are unsuccessful at reaching such agreement and determines (in the sole and unreviewable discretion of the Secretary) that further meeting and conferral under subparagraph (B), mediation under subparagraph (C), or both are unlikely to reach such agreement—

(i) notify the congressional veterans' affairs committees of such determinations, identify for such committees the portions of the recommendations that the Secretary has determined not to accept, and provide such committees an explanation and justification for determining to implement the part of the system subject to such portions of the recommendations without regard to such portions of the recommendations; and

(ii) commencing not earlier than 30 days after notice under clause (i), implement the part of the system subject to the recommendations that the Secretary has determined not to accept without regard to those recommendations.

(5) If the Secretary and exclusive employee representatives reach an agreement under paragraph (4) providing for the resolution of a disagreement on one or more portions of the recommendations

that the Secretary had determined not to accept under that paragraph, the Secretary shall immediately implement such resolution.

(6) In implementing a system of promotion and advancement under this subsection, the Secretary shall—

(A) develop and implement mechanisms to permit exclusive employee representatives to participate in the periodic review and evaluation of the system, including peer review, and in any further planning or development required with respect to the system as a result of such review and evaluation; and

(B) provide exclusive employee representatives appropriate access to information to ensure that the participation of such exclusive employee representative in activities under subparagraph (A) is productive.

(7)(A) The Secretary may from time to time modify a system of promotion and advancement under this subsection.

(B) In modifying a system, the Secretary shall take into account any recommendations made by the exclusive employee representatives concerned.

(C) In modifying a system, the Secretary shall comply with paragraphs (2) through (5) and shall treat any proposal for the modification of a system as a proposal for a system for purposes of such paragraphs.

(D) The Secretary shall promptly submit to the congressional veterans' affairs committees a report on any modification of a system. Each report shall include—

(i) an explanation and justification of the modification; and

(ii) a description of any recommendations of exclusive employee representatives with respect to the modification and a statement whether or not the modification was revised in light of such recommendations.

(8) In the case of employees who are not within a unit with respect to which a labor organization is accorded exclusive recognition, the Secretary may develop procedures for input from representatives under this subsection from any appropriate organization that represents a substantial percentage of such employees or, if none, in such other manner as the Secretary considers appropriate, consistent with the purposes of this subsection.

(9) In this subsection, the term “congressional veterans' affairs committees” means the Committees on Veterans' Affairs of the Senate and the House of Representatives.

#### **§ 7404. Grades and pay scales**

(a)(1) The annual rates or ranges of rates of basic pay for positions provided in section 7306 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.

(2) The pay of physicians and dentists serving in positions to which an Executive order applies under paragraph (1) shall be determined under subchapter III of this chapter instead of such Executive order.

(3)(A) The rate of basic pay for a position to which an Executive order applies under paragraph (1) and is not described by paragraph (2) shall be set in accordance with section 5382 of title 5 as if such position were a Senior Executive Service position (as such term is defined in section 3132(a) of title 5).

(B) A rate of basic pay for a position may not be set under subparagraph (A) in excess of—

(i) in the case the position is not described in clause (ii), the rate of basic pay payable for level III of the Executive Schedule; or

(ii) in the case that the position is covered by a performance appraisal system that meets the certification criteria established by regulation under section 5307(d) of title 5, the rate of basic pay payable for level II of the Executive Schedule.

(C) Notwithstanding the provisions of subsection (d) of section 5307 of title 5, the Secretary may make any certification under that subsection instead of the Office of Personnel Management and without concurrence of the Office of Management and Budget.

(b) The grades for positions provided for in paragraph (1) of section 7401 of this title shall be as follows. The annual ranges of rates of basic pay for those grades shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

**PHYSICIAN AND DENTIST SCHEDULE**

Physician grade.

Dentist grade.

**NURSE SCHEDULE**

Nurse V.

Nurse IV.

Nurse III.

Nurse II.

Nurse I.

**【CLINICAL PODIATRIST, CHIROPRACTOR, AND OPTOMETRIST SCHEDULE】 CLINICAL CHIROPRACTOR AND OPTOMETRIST SCHEDULE**

Chief grade.

Senior grade.

Intermediate grade.

Full grade.

Associate grade.

(c) Notwithstanding the provisions of section 7425(a) of this title, a person appointed under section 7306 of this title who is not eligible for pay under subchapter III shall be deemed to be a career appointee for the purposes of sections 4507 and 5384 of title 5.

(d) Except as provided under subsection (e), subchapter III, and section 7457 of this title, pay for positions for which basic pay is paid under this section may not be paid at a rate in excess of the rate of basic pay authorized by section 5316 of title 5 for positions in Level V of the Executive Schedule.

(e) The position of Chief Nursing Officer, Office of Nursing Services, shall be exempt from the provisions of section 7451 of this title and shall be paid at a rate determined by the Secretary, not to exceed the maximum rate established for the Senior Executive Service under section 5382 of title 5.

\* \* \* \* \*

**§ 7409. Contracts for scarce medical specialist services**

(a) The Secretary may enter into contracts with institutions and persons described in subsection (b) to provide scarce medical specialist services at Department facilities. Such services may include

the services of physicians, dentists, ~~podiatrists,~~ optometrists, chiropractors, nurses, physician assistants, expanded-function dental auxiliaries, technicians, and other medical support personnel.

(b) Institutions and persons with whom the Secretary may enter into contracts under subsection (a) are the following:

- (1) Schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing.
- (2) Clinics.
- (3) Any other group or individual capable of furnishing such scarce medical specialist services.

\* \* \* \* \*

**§ 7413. Treatment of podiatrists**

*For purposes of this chapter, the term “physician” includes a podiatrist.*

SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

**§ 7421. Personnel administration: in general**

(a) Notwithstanding any law, Executive order, or regulation, the Secretary shall prescribe by regulation the hours and conditions of employment and leaves of absence of employees appointed under any provision of this chapter in positions in the Veterans Health Administration listed in subsection (b).

(b) Subsection (a) refers to the following positions:

- (1) Physicians.
- (2) Dentists.
- ~~[(3) Podiatrists.]~~
- ~~[(4) (3) Optometrists.]~~
- ~~[(5) (4) Registered nurses.]~~
- ~~[(6) (5) Physician assistants.]~~
- ~~[(7) (6) Expanded-duty dental auxiliaries.]~~
- ~~[(8) (7) Chiropractors.]~~

\* \* \* \* \*

CHAPTER 77—VETERANS BENEFITS ADMINISTRATION

SUBCHAPTER I—ORGANIZATION; GENERAL

**§ 7701. Organization of the Administration**

(a) There is in the Department of Veterans Affairs a Veterans Benefits Administration. The primary function of the Veterans Benefits Administration is the administration of nonmedical benefits programs of the Department which provide assistance, *other than assistance related to Economic Opportunity and Transition*, to veterans and their dependents and survivors.

(b) The Veterans Benefits Administration is under the Under Secretary for Benefits, who is directly responsible to the Secretary for the operations of the Administration. The Under Secretary for Benefits may be referred to as the Chief Benefits Director.

**§ 7703. Functions of the Administration**

The Veterans Benefits Administration is responsible for the administration of the following programs of the Department:

- (1) Compensation and pension programs.
- [(2) Vocational rehabilitation and educational assistance programs.]
- [(3) Veterans' housing loan programs.]
- [(4)] (2) Veterans' and servicemembers' life insurance programs.
- [(5)] (3) Outreach programs and other veterans' services programs.

\* \* \* \* \*

**CHAPTER 80—VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION**

Sec.  
8001. *Organization of Administration.*  
8002. *Functions of Administration.*

**§ 8001. Organization of Administration**

(a) *VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION* There is in the Department of Veterans Affairs a Veterans Economic Opportunity and Transition Administration. The primary function of the Veterans Economic Opportunity and Transition Administration is the administration of the programs of the Department that provide assistance related to economic opportunity to veterans and their dependents and survivors.

(b) *UNDER SECRETARY FOR ECONOMIC OPPORTUNITY AND TRANSITION* The Veterans Economic Opportunity and Transition Administration is under the Under Secretary for Veterans Economic Opportunity and Transition, who is directly responsible to the Secretary for the operations of the Administration.

(c) *DEPUTY UNDER SECRETARIES* The Veterans Economic Opportunity and Transition Administration shall have two Deputy Under Secretaries as follows:

(1) *The Deputy Under Secretary for Readjustment, who shall be the principal assistant of the Under Secretary for Veterans Economic Opportunity and Transition with respect to the programs specified in paragraphs (1) through (4) of section 8002 of this title.*

(2) *The Deputy Under Secretary for Employment, Training, and Transition, who shall be the principal assistant of the Under Secretary for Veterans Economic Opportunity and Transition with respect to the programs specified in paragraphs (5) through (9) of section 8002 of this title.*

**§ 8002. Functions of Administration***The Veterans Economic Opportunity and Transition Administration is responsible for the administration of the following programs of the Department:*

- (1) *Vocational rehabilitation and employment programs.*
- (2) *Educational assistance programs.*
- (3) *Veterans' housing loan and related programs.*
- (4) *The verification of small businesses owned and controlled by veterans pursuant to subsection (f) of section 8127 of this title, including the administration of the database of veteran-owned businesses described in such subsection.*

- (5) *Job counseling, training, and placement services for veterans under chapter 41 of this title.*
- (6) *Employment and training of veterans under chapter 42 of this title.*
- (7) *Administration of employment and employment rights of members of the uniformed services under chapter 43 of this title.*
- (8) *Homeless veterans reintegration programs under chapter 20 of this title.*
- (9) *The Transition Assistance Program under section 1144 of title 10.*
- (10) *Any other program of the Department that the Secretary determines appropriate.*

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**PART VI—ACQUISITION AND DISPOSITION OF PROPERTY**

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**CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY**

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**SUBCHAPTER II—PROCUREMENT AND SUPPLY**

\* \* \* \* \*

**§ 8127. Small business concerns owned and controlled by veterans: contracting goals and preferences**

- (a) **CONTRACTING GOALS.**—(1) In order to increase contracting opportunities for small business concerns owned and controlled by veterans and small business concerns owned and controlled by veterans with service-connected disabilities, the Secretary shall—
  - (A) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans who are not veterans with service-connected disabilities in accordance with paragraph (2); and
  - (B) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans with service-connected disabilities in accordance with paragraph (3).
- (2) The goal for a fiscal year for participation under paragraph (1)(A) shall be determined by the Secretary.
- (3) The goal for a fiscal year for participation under paragraph (1)(B) shall be not less than the Government-wide goal for that fiscal year for participation by small business concerns owned and controlled by veterans with service-connected disabilities under section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)).
- (4) The Secretary shall establish a review mechanism to ensure that, in the case of a subcontract of a Department contract that is

counted for purposes of meeting a goal established pursuant to this section, the subcontract was actually awarded to a business concern that may be counted for purposes of meeting that goal.

(b) **USE OF NONCOMPETITIVE PROCEDURES FOR CERTAIN SMALL CONTRACTS.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, in entering into a contract with a small business concern owned and controlled by veterans for an amount less than the simplified acquisition threshold (as defined in section 134 of title 41), a contracting officer of the Department may use procedures other than competitive procedures.

(c) **SOLE SOURCE CONTRACTS FOR CONTRACTS ABOVE SIMPLIFIED ACQUISITION THRESHOLD.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department may award a contract to a small business concern owned and controlled by veterans using procedures other than competitive procedures if—

(1) such concern is determined to be a responsible source with respect to performance of such contract opportunity;

(2) the anticipated award price of the contract (including options) will exceed the simplified acquisition threshold (as defined in section 134 of title 41) but will not exceed \$5,000,000; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

(d) **USE OF RESTRICTED COMPETITION.**—Except as provided in subsections (b) and (c), for purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department shall award contracts on the basis of competition restricted to small business concerns owned and controlled by veterans if the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by veterans will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States.

(e) **ELIGIBILITY OF SMALL BUSINESS CONCERNS.**—A small business concern may be awarded a contract under this section only if the small business concern and the veteran owner of the small business concern are listed in the database of veteran-owned businesses maintained by the Secretary under subsection (f).

(f) **DATABASE OF VETERAN-OWNED BUSINESSES.**—(1) Subject to paragraphs (2) through (6), the Secretary shall maintain a database of small business concerns owned and controlled by veterans and the veteran owners of such business concerns.

(2)(A) To be eligible for inclusion in the database, such a veteran shall submit to the Secretary such information as the Secretary may require with respect to the small business concern or the veteran. Application for inclusion in the database shall constitute permission under section 552a of title 5 (commonly referred to as the Privacy Act) for the Secretary to access such personal information maintained by the Secretary as may be necessary to verify the information contained in the application.

(B) If the Secretary receives an application for inclusion in the database from an individual whose status as a veteran cannot be verified because the Secretary does not maintain information with

respect to the veteran status of the individual, the Secretary may not include the small business concern owned and controlled by the individual in the database maintained by the Secretary until the Secretary receives such information as may be necessary to verify that the individual is a veteran.

(3) Information maintained in the database shall be submitted on a voluntary basis by such veterans.

(4) No small business concern may be listed in the database until the Secretary has verified that—

(A) the small business concern is owned and controlled by veterans; and

(B) in the case of a small business concern for which the person who owns and controls the concern indicates that the person is a veteran with a service-connected disability, that the person is a veteran with a service-connected disability.

(5) The Secretary shall make the database available to all Federal departments and agencies and shall notify each such department and agency of the availability of the database.

(6) If the Secretary determines that the public dissemination of certain types of information maintained in the database is inappropriate, the Secretary shall take such steps as are necessary to maintain such types of information in a secure and confidential manner.

(g) ENFORCEMENT PENALTIES FOR MISREPRESENTATION.—(1) Any business concern that is determined by the Secretary to have willfully and intentionally misrepresented the status of that concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans for purposes of this subsection shall be debarred from contracting with the Department for a period of not less than five years.

(2) In the case of a debarment under paragraph (1), the Secretary shall commence debarment action against the business concern by not later than 30 days after determining that the concern willfully and intentionally misrepresented the status of the concern as described in paragraph (1) and shall complete debarment actions against such concern by not later than 90 days after such determination.

(3) The debarment of a business concern under paragraph (1) includes the debarment of all principals in the business concern for a period of not less than five years.

(h) TREATMENT OF BUSINESSES AFTER DEATH OF VETERAN-OWNER.—(1) Subject to paragraph (3), if the death of a veteran causes a small business concern to be less than 51 percent owned by one or more veterans, the surviving spouse of such veteran who acquires ownership rights in such small business concern shall, for the period described in paragraph (2), be treated as if the surviving spouse were that veteran for the purpose of maintaining the status of the small business concern as a small business concern owned and controlled by veterans.

(2) The period referred to in paragraph (1) is the period beginning on the date on which the veteran dies and ending on the earliest of the following dates:

(A) The date on which the surviving spouse remarries.

(B) The date on which the surviving spouse relinquishes an ownership interest in the small business concern.

(C) The date that is ten years after the date of the veteran's death.

(3) Paragraph (1) only applies to a surviving spouse of a veteran with a service-connected disability rated as 100 percent disabling or who dies as a result of a service-connected disability.

(i) PRIORITY FOR CONTRACTING PREFERENCES.—Preferences for awarding contracts to small business concerns shall be applied in the following order of priority:

(1) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans with service-connected disabilities.

(2) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans that are not covered by paragraph (1).

(3) Contracts awarded pursuant to—

(A) section 8(a) of the Small Business Act (15 U.S.C. 637(a)); or

(B) section 31 of such Act (15 U.S.C. 657a).

(4) Contracts awarded pursuant to any other small business contracting preference.

(j) APPLICABILITY OF REQUIREMENTS TO CONTRACTS.—(1) If after December 31, 2008, the Secretary enters into a contract, memorandum of understanding, agreement, or other arrangement with any governmental entity to acquire goods or services, the Secretary shall include in such contract, memorandum, agreement, or other arrangement a requirement that the entity will comply, to the maximum extent feasible, with the provisions of this section in acquiring such goods or services.

(2) Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided under the Small Business Act (15 U.S.C. 631 et seq.).

(k) ANNUAL REPORTS.—Not later than December 31 each year, the Secretary shall submit to Congress a report on small business contracting during the fiscal year ending in such year. Each report shall include, for the fiscal year covered by such report, the following:

(1) The percentage of the total amount of all contracts awarded by the Department during that fiscal year that were awarded to small business concerns owned and controlled by veterans.

(2) The percentage of the total amount of all such contracts awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

(3) The percentage of the total amount of all contracts awarded by each Administration of the Department during that fiscal year that were awarded to small business concerns owned and controlled by veterans.

(4) The percentage of the total amount of all contracts awarded by each such Administration during that fiscal year that were awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

(l) LIMITATIONS ON SUBCONTRACTING.—(1)(A) *The requirements applicable to a covered small business concern under section 46 of*

*the Small Business Act (15 U.S.C. 657s) shall apply with respect to a small business concern owned and controlled by a veteran with a service-connected disability or a small business concern owned and controlled by a veteran that is awarded a contract that is counted for purposes of meeting the goals under subsection (a).*

*(B) For purposes of applying the requirements of section 46 of the Small Business Act (15 U.S.C. 657s) pursuant to subparagraph (A), the term “similarly situated entity” used in such section 46 includes a subcontractor for a small business concern owned and controlled by a veteran with a service-connected disability or a small business concern owned and controlled by a veteran described in such subparagraph (A).*

*(2) Before awarding a contract that is counted for purposes of meeting the goals under subsection (a), the Secretary shall obtain from an offeror a certification that the offeror will comply with the requirements described in paragraph (1)(A) if awarded the contract. Such certification shall—*

*(A) specify the exact performance requirements applicable under such paragraph; and*

*(B) explicitly acknowledge that the certification is subject to section 1001 of title 18.*

*(3) If the Secretary determines that a small business concern that is awarded a contract that is counted for purposes of meeting the goals under subsection (a) did not act in good faith with respect to the requirements described in paragraph (1)(A), the small business concern shall be subject to the penalties specified in—*

*(A) section 16(g)(1) of the Small Business Act (15 U.S.C. 645(g)(1)); and*

*(B) section 1001 of title 18.*

*(4)(A) The Director of Small and Disadvantaged Business Utilization for the Department, established pursuant to section 15(k) of the Small Business Act (15 U.S.C. 644(k)), and the Chief Acquisition Officer of the Department, established pursuant to section 1702 of title 41, shall jointly implement a process using the systems described in section 16(g)(2) of the Small Business Act (15 U.S.C. 645(g)(2)), or any other systems available, to monitor compliance with this subsection. The Chief Acquisition Officer shall refer any violations of this subsection to the Inspector General of the Department.*

*(B) Not later than November 30 of each year, the Inspector General shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report for the fiscal year preceding the fiscal year during which the report is submitted that includes, for the fiscal year covered by the report—*

*(i) the number of referred violations received under subparagraph (A); and*

*(ii) the disposition of such referred violations, including the number of small business concerns suspended or debarred from Federal contracting or referred to the Attorney General for prosecution.*

**[(1)] (m) DEFINITIONS.—**In this section:

**(1)** The term “small business concern” has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(2) The term “small business concern owned and controlled by veterans” means a small business concern—

(A)(i) not less than 51 percent of which is owned by one or more veterans or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(ii) the management and daily business operations of which are controlled by one or more veterans; or

(B) not less than 51 percent of which is owned by one or more veterans with service-connected disabilities that are permanent and total who are unable to manage the daily business operations of such concern or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more such veterans.

\* \* \* \* \*

**SOCIAL SECURITY ACT**

\* \* \* \* \*

**TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES**

\* \* \* \* \*

**PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY**

\* \* \* \* \*

**SEC. 453A. STATE DIRECTORY OF NEW HIRES.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—

(A) REQUIREMENT FOR STATES THAT HAVE NO DIRECTORY.—Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the “State Directory of New Hires”) which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

(B) STATES WITH NEW HIRE REPORTING LAW IN EXISTENCE.—A State which has a new hire reporting law in existence on the date of the enactment of this section may continue to operate under the State law, but the State must meet the requirements of subsection (g)(2) not later than October 1, 1997, and the requirements of this section (other than subsection (g)(2)) not later than October 1, 1998.

(2) DEFINITIONS.—As used in this section:

(A) EMPLOYEE.—The term “employee”—

(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has deter-

mined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(B) EMPLOYER.—

(i) IN GENERAL.—The term “employer” has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

(ii) LABOR ORGANIZATION.—The term “labor organization” shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a “hiring hall”) which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

(C) NEWLY HIRED EMPLOYEE.—The term “newly hired employee” means an employee who—

(i) has not previously been employed by the employer; or

(ii) was previously employed by the employer but has been separated from such prior employment for at least 60 consecutive days.

(b) EMPLOYER INFORMATION.—

(1) REPORTING REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, the date services for remuneration were first performed by the employee, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

(2) TIMING OF REPORT.—Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made—

- (A) not later than 20 days after the date the employer hires the employee; or
- (B) in the case of an employer transmitting reports magnetically or electronically, by 2 monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.
- (c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall, to the extent practicable, be made on a W-4 form or, at the option of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.
- (d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall not exceed—
- (1) \$25 per failure to meet the requirements of this section with respect to a newly hired employee; or
  - (2) \$500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.
- (e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).
- (f) INFORMATION COMPARISONS.—
- (1) IN GENERAL.—Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.
  - (2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.
- (g) TRANSMISSION OF INFORMATION.—
- (1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the income of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's income is not subject to withholding pursuant to section 466(b)(3).
  - (2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—
    - (A) NEW HIRE INFORMATION.—Within 3 business days after the date information regarding a newly hired em-

ployee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires information concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations.

(3) BUSINESS DAY DEFINED.—As used in this subsection, the term “business day” means a day on which State offices are open for regular business.

(h) OTHER USES OF NEW HIRE INFORMATION.—

(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations, and may disclose such information to any agent of the agency that is under contract with the agency to carry out such purposes.

(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS’ COMPENSATION.—State agencies operating employment security and workers’ compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.

(4) SECRETARY OF VETERANS AFFAIRS.—*The Secretary of Veterans Affairs shall have access to information reported by employers pursuant to subsection (b) of this section.*

\* \* \* \* \*

**VETERANS ACCESS, CHOICE, AND ACCOUNTABILITY  
ACT OF 2014**

\* \* \* \* \*

**TITLE VII—OTHER VETERANS MATTERS**

**SEC. 701. EXPANSION OF MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP.**

(a) EXPANSION OF ENTITLEMENT.—Subsection (b)(9) of section 3311 of title 38, United States Code, is amended by inserting “or spouse” after “child”.

(b) LIMITATION AND ELECTION ON CERTAIN BENEFITS.—Subsection (f) of such section is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

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

“(2) LIMITATION.—The entitlement of an individual to assistance under subsection (a) pursuant to paragraph (9) of subsection (b) because the individual was a spouse of a person described in such paragraph shall expire on the earlier of—

“(A) the date that is 15 years after the date on which the person died; or

“(B) the date on which the individual remarries.

“(3) ELECTION ON RECEIPT OF CERTAIN BENEFITS.—A surviving spouse entitled to assistance under subsection (a) pursuant to paragraph (9) of subsection (b) who is also entitled to educational assistance under chapter 35 of this title may not receive assistance under both this section and such chapter, but shall make an irrevocable election (in such form and manner as the Secretary may prescribe) under which section or chapter to receive educational assistance.”.

(c) CONFORMING AMENDMENT.—Section 3321(b)(4) of such title is amended—

(1) by striking “an individual” and inserting “a child”; and

(2) by striking “such individual’s” each time it appears and inserting “such child’s”.

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after January 1, 2015.]

(d) APPLICABILITY.—

(1) IN GENERAL.—*The amendments made by this section shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after January 1, 2015.*

(2) DEATHS THAT OCCURRED BETWEEN SEPTEMBER 11, 2001, AND DECEMBER 31, 2005.—*For purposes of section 3311(f)(2) of title 38, United States Code, any member of the Armed Forces who died during the period beginning on September 11, 2001, and ending on December 31, 2005, is deemed to have died on January 1, 2006.*

\* \* \* \* \*

**SECTION 5003 OF THE POST-9/11 VETERANS  
EDUCATIONAL ASSISTANCE ACT OF 2008**

**SEC. 5003. EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WHO SERVE AFTER SEPTEMBER 11, 2001.**

[Subsections (a) and (b) provide for amendments to law.]

[(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.—

[(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

[(A) as of August 1, 2009—

[(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

[(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

[(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

[(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

[(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

[(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

[(B) as of the date of the individual's election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

[(2) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

[(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

[(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

[(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

[(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the dependent or depend-

ents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

**[(4) POST-9/11 EDUCATIONAL ASSISTANCE.—**

**[(A) IN GENERAL.—**Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

**[(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—**In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

**[(i)** the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

**[(ii)** the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

**[(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—**

**[(A) IN GENERAL.—**In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

**[(B) CHARGE FOR USE OF ENTITLEMENT.—**The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

**[(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—**

**[(A) ADDITIONAL ASSISTANCE.—**In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38, United

States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title, or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

【(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

【(ii) the fraction—

【(I) the numerator of which is—

【(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

【(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

【(II) the denominator of which is 36 months.

【(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

【(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

【(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

【(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.】

(d) **EFFECTIVE DATE.**—This section and the amendments made by this section shall take effect on August 1, 2009.

## DISSENTING VIEWS

We respectfully oppose two provisions of H.R. 3016, the Veterans Employment, Education, and Health Care Improvement Act of 2015, as amended.

### TITLE II, SECTION 203

Section 203 would create within the Department of Veterans Affairs (VA) an entirely new bureaucracy, the Veterans Economic Opportunity and Transition Administration (VEOTA). H.R. 3016 would consolidate various programs and transfer the Veterans Employment and Training Services (VETS) from the Department of Labor (DOL) to the VA.

This section mandates a reorganization of two agencies of the Executive Branch without providing a concrete plan as to how the VA and DOL should make these significant changes. What's more, as of November 6, 2015, veteran unemployment is at 3.9 percent, lower than the national unemployment rate of 5.0 percent and down from 6.2 percent last year.<sup>1</sup> Mandating this reorganization is simply an attempt to fix something that clearly is not broken and risks major disruptions to our efforts to ensure that veterans find employment.

This proposed change is opposed by Executive Branch. On September 16, 2015 VA Secretary Bob McDonald and DOL Secretary Tom Perez sent a joint letter articulating their belief that “the proposal to move VETS to VA undermines the collective progress we have made over the past several years to ensure that all veterans have access to good-paying civilian jobs.” The Secretaries emphasize the different but complementary roles and expertise that DOL and VA bring to veterans’ employment efforts, including DOL’s focus on issues relating to employment and training, and VA’s responsibility for veterans.

The joint letter confirms that moving DOL VETS to VA would unnecessarily duplicate DOL resources within VA, thus adding on redundant layers of bureaucracy. “Rather than consolidating government programs, the proposal before the Committee separates veterans’ job training, job search, and job placement services from similar services being provided to non-veteran job seekers, thus creating a parallel workforce system [within VA] that ultimately will be more expensive and less effective.” Yet in spite of the Secretaries’ insistence that transferring DOL VETS to VA would “generate worse outcomes for veterans by not leveraging existing infrastructure and expertise,” this legislation persists in promoting this costly and misguided policy.

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<sup>1</sup>Veterans Benefits Administration Office of Economic Opportunity, Employment Facts and Statistics, BLS Employment Data, October 2015.

Moving DOL VETS to VA would give VA more responsibility that it does not want, while undermining DOL's significant progress in helping veterans find quality employment. This apparent vote of confidence in VA's ability to manage important programs and their corresponding budgets contradicts the often-heard narrative that VA is unable to effectively care for our nation's veterans

If there are problems with DOL VETS then it is Congress's duty to exercise oversight and address those problems directly. Lacking a detailed and concrete plan as to how this reorganization would occur, including the manner in which these programs are funded and what happens to employees, there is simply not enough information to feel confident that VA would do a better job in this area than DOL.

At the Full Committee markup on September 17, 2015, we supported an amendment introduced by Representative Titus to strike Section 203 and instead require three studies be conducted to carefully evaluate this issue. Such studies would allow Congress to better understand how the VA and DOL programs can help veterans in their job search, employment training, and career development. This amendment was defeated.

#### TITLE III, SECTION 301

Section 301 would change the terms of eligibility for servicemembers who elect to transfer Post-9/11 GI Bill benefits to their dependents. Currently, servicemembers can elect to transfer their valuable Post-9/11 education benefits to dependents upon completing six years of military service and committing to four more years. Section 301 would change the transfer eligibility criteria to a completion of ten years plus a commitment of two more years. In addition, the provision would reduce GI Bill living stipend payments to children transferees by half. These changes are based on the recommendations in the 2015 Military Compensation and Retirement Modernization Commission report.<sup>2</sup>

These changes would go into effect 180 days after enactment. A current servicemember who had not served six years by that date would have to wait to hit the ten-year mark, even if he or she had been planning to elect to transfer education benefits at the six-year mark. This incomplete grandfathering of current servicemembers would create a reach-back that violates elements of the contract we made with the individuals who signed up to serve in our military and defend our country.

These changes to GI Bill transferability exist largely to save money, not to meet the educational needs of veterans or their dependents. It is crucial to note that the savings would not be re-invested to enhance veterans' access to quality higher education and job training. Rather, the savings would pay for the ill-advised policy to move DOL VETS to VA, among other provisions unrelated to veterans' education. Chipping away at the hard-earned VA education benefits that veterans, servicemembers and their dependents rely on, without reinvesting in veterans' education programs, would simply erode veterans' educational opportunities and ultimately

<sup>2</sup> Report of the Military Compensation and Retirement Modernization Commission, Final Report. January 29, 2015.

make it more difficult for them to succeed in their transition to civilian life.

Further, given that the Department of Defense (DOD) relies on GI Bill transferability as a recruitment and retention tool, these changes would be better decided after consideration and approval from the House Armed Services Committee.

At the September 17, 2015 Full Committee markup, we supported an amendment offered by Representative Takano to remove Section 301 and keep in place the current rules governing Post-9/11 GI Bill transferability. This amendment was defeated.

CORRINE BROWN,  
*Ranking Member.*  
JULIA BROWNLEY.  
ANN KUSTER.  
MARK TAKANO.  
DINA TITUS.  
TIM WALZ.

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