

LONG-TERM CARE VETERANS CHOICE ACT

—————
JULY 24, 2018.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. ROE of Tennessee, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 5693]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 5693) to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into contracts and agreements for the placement of veterans in non-Department medical foster homes for certain veterans who are unable to live independently, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Long-Term Care Veterans Choice Act”.

SEC. 2. SECRETARY OF VETERANS AFFAIRS CONTRACT AUTHORITY FOR PLACEMENT OF VETERANS IN NON-DEPARTMENT MEDICAL FOSTER HOMES.

(a) **AUTHORITY.**—Section 1720 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(h)(1) During the three-year period beginning on October 1, 2019, and subject to paragraph (2), at the request of a veteran for whom the Secretary is required to provide nursing home care under section 1710A of this title, the Secretary may place the veteran in a medical foster home that meets Department standards, at the expense of the United States, pursuant to a contract, agreement, or other arrangement entered into between the Secretary and the medical foster home for such purpose. A veteran who is placed in a medical foster home under this subsection shall agree, as a condition of such placement, to accept home health services furnished by the Secretary under section 1717 of this title.

“(2) In any year, not more than a daily average of 900 veterans placed in a medical foster home, whether placed before or after the date of the enactment of this subsection, may have their care covered at the expense of the United States under subsection (a).

“(3) In this subsection, the term ‘medical foster home’ means a home designed to provide non-institutional, long-term, supportive care for veterans who are unable to live independently and prefer a family setting.”.

(b) **EFFECTIVE DATE.**—Subsection (h) of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2019.

SEC. 3. 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.
“8003. Annual report to Congress.

“§ 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.

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

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

“§ 8003. Annual report to Congress

“The Secretary shall include in the annual report to the Congress required by section 529 of this title a report on the programs administered by the Under Secretary for Veterans Economic Opportunity and Transition. Each such report shall include

the following with respect to each such program during the fiscal year covered by that report:

- “(1) The number of claims received.
- “(2) The number of claims decided.
- “(3) The average processing time for a claim.
- “(4) The number of successful outcomes (as determined by the Secretary).
- “(5) The number of full-time equivalent employees.
- “(6) The amounts expended for information technology.”.

(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, 2019.

(c) FULL-TIME EMPLOYEES.—For fiscal years 2019 and 2020, 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 23,692.

SEC. 4. 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.”.

(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, 2019.

SEC. 5. LOANS GUARANTEED UNDER HOME LOAN PROGRAM OF DEPARTMENT OF VETERANS AFFAIRS.

The table in section 3729(b)(2) of such title is amended by striking the item relating to subparagraph (E) and inserting the following new item:

“(E)(i) Interest rate reduction refinancing loan (closed before January 1, 2019)	0.50	0.50	NA
(E)(ii) Interest rate reduction refinancing loan (closed on or after January 1, 2019, but before October 1, 2024)	0.75	0.75	NA
(E)(iii) Interest rate reduction refinancing loan (closed on or after October 1, 2024)	0.50	0.50	NA”.

Amend the title so as to read:

A bill to to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into contracts and agreements for the placement of veterans in non-Department medical foster homes for certain veterans who are unable to live independently, to establish the Veterans Economic Opportunity and Transition Administration and the Under Secretary for Veterans Economic Opportunity and Transition of the Department of Veterans Affairs, to amend the interest rate for certain loans guaranteed

under the home loan program of the Department of Veterans Affairs, and for other purpose.

PURPOSE AND SUMMARY

H.R. 5693, as amended, the Long-Term Care Veterans Choice Act, would authorize the Department of Veterans Affairs (VA) to cover the cost of a medical foster home for certain veterans, create a Veterans Economic Opportunity and Transition Administration, and authorize a temporary increase in the VA home loan funding free for interest rate reduction when refinancing homes. Representative Clay Higgins of Louisiana introduced H.R. 5693 on May 7, 2018. H.R. 5693, as amended, which incorporates the text of H.R. 5644, the Veterans' Education, Transition, and Opportunity Prioritization Plan (or VET OPP) Act of 2018. H.R. 5644 was introduced by Representative Brad Wenstrup of Ohio on April 26, 2018.

BACKGROUND AND NEED FOR LEGISLATION

Section 2. Secretary of Veterans Affairs contract authority for placement of Veterans Affairs in non-department medical foster homes

Section 101 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 STAT. 1545) established a requirement for VA to provide nursing home care to enrolled veterans who are in need of nursing home care due to a service-connected disability or who are in need of nursing home care and have a service-connected disability rated at 70 percent or more.

This requirement is codified in section 1710A of title 38 United States Code (U.S.C.). To fulfill this requirement, VA provides nursing home care through Community Living Centers located on VA medical center campuses; through Community Nursing Homes; and, through State Veterans Homes.¹ VA currently provides nursing home care to over 17,000 veterans at an annual cost of more than \$5 billion.² VA's fiscal year 2019 budget submission notes that, "VA has the responsibility to reduce its mounting expenditures for nursing home care, especially where safe and proven home-based alternatives are available."³ Medical foster homes (MFHs) are one such alternative.

MFHs allow veterans in need of nursing home care to receive such care in a non-institutional, home-based setting.⁴ MFHs are private homes in which a trained caregiver provides round-the-clock care—including room and board, assistance with activities of daily living, medication management, and recreational and social support—to a small group of individuals.⁵ Veterans residing in MFHs also receive care through VA's Home Based Primary Care

¹ *Residential Settings and Nursing Homes*. Geriatrics and Extended Care. https://www.va.gov/GERIATRICS/Guide/LongTermCare/Nursing_Home_and_Residential_Services.asp. Accessed July 17, 2018.

² VA Fiscal Year 2019 Budget Submission, Volume II—Medical Programs and Information Technology Programs, VHA–340–341.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Medical Foster Home Care and Elder Veterans*. Geriatrics and Extended Care. https://www.va.gov/geriatrics/guide/longtermcare/medical_foster_homes.asp. Accessed July 17, 2018.

program.⁶ MFHs originated as a VA pilot program in 2000.⁷ Since then, VA has successfully served over 4,000 veterans in MFHs, including more than 1,000 veterans who reside in MFHs today.⁸ MFH care costs approximately \$1,500 to \$3,000 per month while traditional nursing home care costs approximately \$7,000 per month.⁹ However, VA currently lacks the authority to pay for care in a MFH, meaning that veterans—even those who VA is required by law to provide with needed nursing home care—must pay out-of-pocket to reside in a MFH. As a result, “VA pays more than twice as much for the long-term nursing home care for many veterans than it would if VA was granted . . . authority to pay for care in a MFH.”¹⁰

The Committee concurs with VA that MFHs can offer safe, highly veteran-centric care at a lower cost than traditional nursing home care and can be used to increase access and promote choice.¹¹ The Committee also concurs with VA that, “many more service-connected veterans referred to or residing in nursing homes would choose MFH [care] if VA paid the costs for [the] MFH,” which would be beneficial because, “[a]ligning patient choice with optimal locus of care results in more veterans receiving long-term care in a preferred setting, with substantial reductions in costs to VA.”¹²

Section 2 of the bill would authorize VA, during the three-year period beginning on October 1, 2019, to cover the cost of care in a MFH for a daily average of up to 900 veterans for whom VA is required to provide nursing home care and who agree to receive VA home health care. MFH would be defined as a home designed to provide non-institutional, long-term, supportive care for veterans who are unable to live independently and prefer a family setting. According to correspondence the Committee received from VA, VA estimates that, if the Department were granted the authority to pay for MFH care pursuant to section 2 of the bill, cost savings of approximately \$99 million over three years would be achieved.

Section 3. Establishment of Veterans Economic Opportunity and Transition Administration

Currently, title 38 U.S.C. establishes three separate administrations within VA. Chapter 73 of title 38 U.S.C. establishes the Veterans Health Administration (VHA), which is responsible for the administration of all 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

⁶ Ibid.

⁷ VA Fiscal Year 2019 Budget Submission, Volume II—Medical Programs and Information Technology Programs, VHA-340-341.

⁸ Ibid.

⁹ United States Cong. House Committee on Veterans’ Affairs Subcommittee on Health. “*Legislative Hearing*.” June 13, 2018. 115th Cong. 2nd sess. Washington: GPO, 2018 (testimony of the Honorable Clay Higgins, U.S. House of Representatives, 3rd District, Louisiana).

¹⁰ VA Fiscal Year 2019 Budget Submission, Volume II—Medical Programs and Information Technology Programs, VHA-340-341.

¹¹ United States Cong. House Committee on Veterans’ Affairs Subcommittee on Health. “*Legislative Hearing*.” June 13, 2018. 115th Cong. 2nd sess. Washington: GPO, 2018 (testimony of Jessica Bonjorni, the Acting Assistant Deputy Under Secretary for Health for Workforce Services, Veterans Health Administration, U.S. Department of Veterans Affairs.)

¹² VA Fiscal Year 2019 Budget Submission, Volume II—Medical Programs and Information Technology Programs, VHA-340-341.

programs. Chapter 24 of title 38 U.S.C. establishes the National Cemetery Administration (NCA), which is responsible for the administration of the more than 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 veteran population in general, the number of compensation claims that have been received by VA has continued to increase. As of July 16, 2018, there were 347,404 pending disability claims at VA and 77,215 (22%) of those were pending more than 125 days. Moreover, as of June 1, 2018, there were 441,133 appeals pending at both VBA and the Board of Veterans' Appeals, with many veterans waiting more than five years for a final decision on their claims. As the backlog continues to rise and fall over time, it continues to draw considerable criticism from the veterans' community as well as Congress and the media. 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 administered by VBA. As an example, the Administration's FY 2019 budget request includes funds to support 21,543 direct labor full time equivalent employees (FTEE) for VBA. Of this number, 15,851 direct labor FTEE were requested to administer disability compensation, pension, burial, dependency indemnity compensation, which leaves 5,692 employees to work on other benefits. The Committee believes 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 3 of the bill would create Chapter 80 in title 38 U.S.C. to establish the Veterans Economic Opportunity and Transition Administration (VEOTA), which would manage the G.I. Bill, Home Loan Guaranty, and Vocational Rehabilitation and Employment (VR&E) programs along with VA's portion of the Transition Assistance Program that help servicemembers transition to civilian life.

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 3 of the bill would place the program authorized by Section 8127 under the auspices 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 section 3 of the bill would

also cap the amount of combined FTEE at both VBA and VEOTA to no more than 23,692 FTEE for fiscal year 2019 and fiscal year 2020. In order for the organization of the VEOTA to take place in an orderly and efficient manner, the amendments made by this section would not go into effect until October 1, 2019. The Committee believes this gives VA enough time to allow for a smooth transition in the realignment these programs within VEOTA.

Finally, section 3 of the bill would also require that VA include data in the annual benefits report on claims received, claims decided, and processing times for claims administered by VEOTA as well as long term outcomes of participants in VEOTA's programs. The Committee believes this reporting requirement would be critical to analyze and track the performance of VEOTA's programs and benefits especially how these programs lead to positive economic outcomes for veterans.

Section 4. Under Secretary for Veterans Economic Opportunity and Transition

Section 4 of the bill would amend title 38 U.S.C. by adding a new section 306A to create the position of Under Secretary for Veterans Economic Opportunity and Transition to oversee all VEOTA programs and operations. This section would complement section 3 of the 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 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 consists 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 would 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 5. Loans guaranteed under home loan program of Department of Veterans Affairs

First authorized by the Servicemember's Readjustment Act of 1944, the VA Home Loan Guaranty program helps hundreds of thousands of servicemembers and veterans, each year, purchase their part of the American dream. In fiscal year 2017, the VA Loan Guaranty Service guaranteed 740,389 loans totaling over \$188 billion.¹³ Section 3729 of title 38 U.S.C. requires certain users of VA's loan guaranty benefit to pay a funding fee. The amount of the funding fee varies based on an individual's active duty or reserve status, the amount of down payment brought forward, and the date

¹³ Fiscal Year 2019 Budget Submission, U.S. Department of Veterans Affairs, Volume 3, "Benefits and Burial Programs and Departmental Administration, page 234.

of loan origination. The costs of the funding fee can be rolled into the loan and can be waived if the servicemember has a service-connected disability. These fees reduce the subsidy cost associated with VA's guaranty of mortgage loans and have typically been viewed as a reasonable cost to the benefit gained by having VA guarantee a mortgage loan.

Section 5 of the bill would make adjustments to the home loan fee for refinanced loans that lead to an interest rate reduction and would be made on or after January 1, 2019 but before September 30, 2024. The funding fee rate would be changed from 0.50 from 0.75. After September 20, 2026, the rate will revert back to current rate. The Committee believes that these modest increases would have minimal impact on the home loan market and would not seriously limit a veteran's or a servicemember's ability to use their home loan benefit. It should also be noted that, according to VA data, out of the 589,533 VA loans expected to close this year, approximately 42 percent, or 247,603, will not require any loan fee due to the veteran borrower's disability rating.

HEARINGS

On June 13, 2018, the Subcommittee on Health conducted a legislative hearing on a number of bills including H.R. 5693.

The following witnesses testified:

The Honorable Vicky Hartzler, U.S. House of Representatives, 4th District, Missouri; The Honorable Marcy Kaptur, U.S. House of Representatives, 9th District, Ohio; The Honorable Matt Cartwright, U.S. House of Representatives, 17th District, Pennsylvania; The Honorable Clay Higgins, U.S. House of Representatives, 3rd District, Louisiana; The Honorable Mike Bost, U.S. House of Representatives, 12th District, Illinois; The Honorable Jeff Denham, U.S. House of Representatives, 10th District, California; The Honorable Jennifer Gonzalez-Colon, U.S. House of Representatives, Puerto Rico; The Honorable Brad Wenstrup, U.S. House of Representatives, 2nd District, Ohio; Roscoe Butler, Deputy Director for Health Care, Veterans Affairs and Rehabilitation, The American Legion; Jeremy Villanueva, Associate National Legislative Director, Disabled American Veterans; Kayda Keleher, Associate Director, National Legislative Service, Veterans of Foreign Wars of the United States; and Jessica Bonjorni MBA, PMP, SPHR, Acting Assistant Deputy Under Secretary for Health for Workforce Services, Veterans Health Administration, U.S. Department of Veterans Affairs, who was accompanied by Dayna Cooper MSN, RN, Director, Home and Community-Based Programs, Veterans Health Administration, U.S. Department of Veterans Affairs.

Statements for the record were submitted by:

American Orthotic and Prosthetic Association, Paralyzed Veterans of America, and Military Officers Association of America.

On May 23, 2018, the Subcommittee on Economic Opportunity held a legislative hearing on a number of bills including H.R. 5644 which was incorporated in sections three and four of H.R. 5693, as amended.

The following witnesses testified:

The Honorable Julia Brownley, U.S. House of Representatives, 26th District, California; The Honorable Scott Peters, U.S. House of Representatives, 52nd District, California; The Honorable Brad Wenstrup, U.S. House of Representatives, 2nd District, Ohio; The Honorable Cheri Bustos, U.S. House of Representatives, 17th District, Illinois; The Honorable Ryan Costello, U.S. House of Representatives, 6th District, Pennsylvania; Ms. Margarita Devlin, Principal Deputy Under Secretary for Benefits, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Mr. John Kamin, Assistant Director, Veterans Employment and Education Division, The American Legion; Ms. Lauren Augustine, Vice President of Government Affairs, Student Veterans of America; and Ms. Rebecca Burgess, Program Manager, Program on American Citizenship, American Enterprise Institute.

Statements for the record were submitted by:

U.S. Department of Defense; U.S. Department of Justice; Tragedy Assistance Program for Survivors; and Paralyzed Veterans of America

SUBCOMMITTEE CONSIDERATION

On June 27, 2018, the Subcommittee on Health met in open markup session, a quorum being present and favorably forwarded H.R. 5693, as amended, to the Full Committee. During consideration of the bills, the following amendment was considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Representative Clay Higgins of Louisiana, which would clarify that the pilot program would authorize VA to cover the costs of medical foster home care for a daily average of up to 900 veteran patients for whom VA would otherwise be required to provide nursing home care.

COMMITTEE CONSIDERATION

On July 12, 2018, the full Committee met in open markup session, a quorum being present, and ordered H.R. 5693, as amended, to be reported favorably to the House of Representatives by voice vote. During consideration of the bill, the following amendment was considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Representative David P. Roe of Tennessee—the Chairman of the Committee on Veterans' Affairs—which would combine the contents of H.R. 5693, as amended, H.R. 5644, and a provision that would authorize a temporary nominal increase in the funding fee for refinanced VA guaranteed loans.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, there were no recorded votes taken on amendments or in connection with ordering H.R. 5693, as amended, reported to the House. A motion by Representative Tim Walz of Minnesota—the Ranking Member of the Committee on Veterans'

Affairs—to report H.R. 5693, as amended, favorably to the House of Representatives was adopted by voice vote.

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 to authorize VA to cover the cost of care in a medical foster home for certain veterans, create a new fourth administration at VA, and make nominal changes to home loan funding fees.

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. 5693, 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. 5693, 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. 5693, as amended, provided by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 19, 2018.

Hon. PHIL ROE, M.D.,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5693, the Long-Term Care Veterans Choice Act.

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

Sincerely,

MARK P. HADLEY
(For Keith Hall, Director).

Enclosure.

H.R. 5693—Long-Term Care Veterans Choice Act

Summary: H.R. 5693 would expand the authority of the Department of Veterans Affairs (VA) to provide long-term care for certain veterans and would reorganize the administration of several veterans benefit programs. CBO estimates that implementing the bill would cost \$200 million over the 2019–2023 period, assuming appropriation of the necessary amounts.

In addition, the bill would modify the program that provides mortgage loan guarantees for veterans. CBO estimates that enacting H.R. 5693 would decrease direct spending by \$202 million over the 2019–2028 period.

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. 5693 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 5693 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effects of H.R. 5693 are shown in Table 1. The costs of the legislation fall within budget function 700 (veterans benefits and services).

Basis of Estimate: For this estimate, CBO assumes that H.R. 5693 will be enacted near the beginning of fiscal year 2019 and that the estimated amounts will be appropriated each year. Estimated outlays are based on historical spending patterns for the affected programs.

Spending subject to appropriation

H.R. 5693 would authorize VA to provide long-term care to veterans in medical foster homes (MFHs) and establish a new organization in VA to administer readjustment benefits, transition assistance, and several other benefit programs that are currently part of the Veterans Benefits Administration. In total, CBO estimates that implementing the bill would cost \$200 million over the 2019–2023 period, assuming appropriation of the necessary amounts (see Table 2).

Medical Foster Homes. For the three-year period beginning on October 1, 2019, section 2 would authorize VA to place up to 900 veterans (on an average daily basis) with severe service-connected disabilities in MFHs and to pay the full cost of their stay in those establishments. A MFH is a private home in which a trained caregiver provides services to a few individuals. VA has an existing program to inspect and approve MFHs for veterans. Veterans currently living in such homes are eligible to receive VA’s Home Based Primary Care services, which include case management and health care provided in the home. This bill would authorize VA to also pay for the cost of living (room and board) in MFHs. CBO expects that once veterans are placed in medical foster care under this new program, VA would continue to pay for their stays in those facilities indefinitely so that the costs for the program would continue after 2022.

TABLE 2.—ESTIMATE OF THE EFFECTS ON SPENDING SUBJECT TO APPROPRIATION OF H.R. 5693, THE LONG-TERM CARE VETERANS CHOICE ACT

	By fiscal year, in millions of dollars—						
	2018	2019	2020	2021	2022	2023	2019–2023
Medical Foster Homes:							
Estimated Authorization Level	0	0	34	41	50	49	174
Estimated Outlays	0	0	30	39	48	48	165
Veterans Economic Opportunity and Transition Administration:							
Estimated Authorization Level	0	1	13	7	7	7	35
Estimated Outlays	0	1	12	8	7	7	35
Total Changes in Spending Subject to Appropriation:							
Estimated Authorization Level	0	1	47	48	57	56	209
Estimated Outlays	0	1	42	47	55	55	200

Of the 900 veterans eligible for this program, CBO estimates that 600 would become residents of MFHs as a result of the bill’s enactment. For those veterans, VA would pay for their living expenses, as well as the costs for Home Based Primary Care services. We estimate that those veterans would receive health care that would cost \$16,000 per year more than they would receive under current law because providing care in individual homes is costlier than providing health care at VA medical facilities. Including the costs for living expenses at the MFHs of \$42,000 per year, on aver-

age, we estimate total costs per new resident of \$58,000 per year, on average. On that basis, CBO estimates that total costs for new MFH residents would be about \$35 million a year.

CBO estimates that the remaining 300 veterans would be those who are already living in MFHs. Because VA currently provides those veterans with in-home health care services, the estimated incremental cost would be \$42,000 a year per veteran to cover the expense of living in the MFHs. Those costs would total about \$10 million a year for those 300 veterans, CBO estimates.

After accounting for inflation, the appropriate mortality rates, and a gradual implementation period to reflect the necessary time for VA to transition additional veterans into the MFH program, CBO estimates that implementing this bill would cost an additional \$165 million over the 2019–2023 period, assuming appropriation of the necessary amounts.

Veterans Economic Opportunity and Transition Administration. Sections 3 and 4 would create a new administration at VA to manage programs for readjustment benefits, home-loan guarantees, and small-business assistance. Beginning in fiscal year 2020, the bill 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, veterans' small business programs, and VA's responsibilities under the transition assistance program would be managed by VEOTA. VBA and VEOTA each would be led by an Undersecretary. Section 3 would limit the total number of full-time equivalent (FTE) positions serving in both administrations to 23,692 in fiscal years 2019 and 2020.

VA reports that about 4,400 VA employees currently 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 \$115 million, we estimate a 10 percent increase in 2020 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 \$22 million over the 2019–2023 period. In addition, CBO estimates that VEOTA would require an additional 20 FTE positions at an average annual cost of \$200,000 to manage the daily operations of the new administration. CBO estimates costs of \$13 million for those additional staff.

In total, CBO estimates that establishing VEOTA would cost \$35 million over the 2019–2023 period.

Direct spending

Section 5 would change the fee that VA charges veterans for providing loan guarantees under its home loan program. Under that program, VA provides lenders a payment of up to 25 percent of the outstanding mortgage balances (subject to some limitations on the original loan amounts) in the event that veterans default on guaranteed loans. The guarantees enable veterans to get better loan terms, such as lower interest rates or smaller down payments. The fee varies by several factors such as the type of the loan and the amount of the down payment. Increasing the fee would lower the subsidy cost of the guarantees by partially offsetting the costs of subsequent defaults.¹ (Reducing the fee would have the opposite effect.) The subsidy cost of VA loan guarantees are paid from mandatory appropriations. Hence, changing the subsidy cost would affect direct spending.

Veterans can refinance VA-guaranteed loans with another loan that also would be guaranteed by VA. Those borrowers pay a fee of 0.50 percent of the new principal if the amount of the new loan is the same as the outstanding principal balance of the prior loan and the interest rate on the new loan is lower. Section 5 would increase that fee to 0.75 percent of the principal amount for loans that are refinanced after December 31, 2018, and before October 1, 2024. After that latter date, the fee would revert to 0.50 percent.

Using information from VA on the number and size of refinancing loans guaranteed in recent years, the default rate for those loans, and the amount of fees collected, CBO estimates that increasing the fees would decrease direct spending by \$202 million over the 2019–2028 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 Table 3.

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

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 5693 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: H.R. 5693 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Ann E. Futrell, David Newman, and Logan Smith; Mandates: Andrew Laughlin.

Estimate reviewed by: Sarah Jennings Chief, Defense, International Affairs, and Veterans' Affairs Cost Estimates Unit; Leo Lex, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 5693, 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. 5693, as amended.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, H.R. 5693, as amended, 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 H.R. 5693, as amended, 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 clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 5693, 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, 115th Cong. (2017), the Committee estimates that H.R. 5693, as amended, contains no directed rulemaking that would require the Secretary to prescribe regulations.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 of the bill would provide a short title of the bill as the “Long-Term Care Veterans Choice Act.”

Section 2. Secretary of Veterans Affairs contract authority for placement of Veterans Affairs in non-department medical foster homes

Section 2(a) of the bill would amend section 1720 of title 38 U.S.C. by adding at the new the following new subsection: “(h)(1) During the three year period beginning on October 1, 2019, and subject to paragraph (2), at the request of a veteran for whom the Secretary is required to provide nursing home care under section 1710A of this title, the Secretary may place the veteran in a medical foster home that meets Department standards, at the expense of the United States, pursuant to a contract, agreement, or other arrangement entered into between the Secretary and the medical foster home for such purpose. A veteran who is placed in a medical foster home under this subsection shall agree, as a condition of such placement, to accept home health services furnished by the Secretary under section 1717 of this tile. (2) In any year, not more than a daily average of 900 veterans placed in a medical foster home, whether placed before or after the date of enactment of this subsection, may have their care covered at the expense of the United States under subsection (a). (3) In this subsection, the term medical foster home’ means a home designed to provide non-institutional, long-term, supportive care for veterans who are unable to live independently and prefer a family setting.”

Section 2(b) of the bill would provide an effective date for subsection (h) of title 38 U.S.C. as October 1, 2019.

Section 3. Establishment of Veterans Economic Opportunity and Transition Administration

Section 3(a) of the bill would amend Part V of title 38 U.S.C. by adding at the end the following new chapter: “Chapter 80—Veterans Economic Opportunity and Transition Administration.”

The new section 8001 would establish within VA the VEOTA with a primary function of administering VA programs that provide assistance related to economic opportunity to veterans and their dependents and survivors. The new section 8001 would also establish within VA the Under Secretary for Veterans Economic Opportunity and Transition to be directly responsible to the VA Secretary for the operations of the VEOTA.

The new section 8002 would establish that the VEOTA is responsible for the administration of the following VA programs: vocational rehabilitation and employment programs; educational programs; veterans’ housing loan and related programs; the verification of small businesses owned and controlled by veterans pursuant to subsection (f) of section 8127 of title 38 U.S.C., including the administration of the database of veteran-owned businesses described in such subsection; VA’s portion of TAP under section 1144 of title 10 U.S.C.; and any other VA program that the VA Secretary determines appropriate.

The new section 8003 would require VA to include in the annual report to Congress required by section 529 of title 38 U.S.C. a report on the programs administered by the Under Secretary for Veterans Economic Opportunity and Transition and require each such report to include the following with respect to each such program during the fiscal year covered by that report: the number of claims received; the number of claims decided; the average processing time for a claim; the number of successful outcomes (as described by VA); the number of full-time equivalent employees; and the amounts expended for information technology.

Section 3(a) of the bill would also amend the table of chapters at the beginning of title 38 U.S.C. and of part V of title 38 U.S.C. by inserting after the item relating to chapter 79 a new item relating to the Veterans Economic Opportunity and Transition Administration.

Section 3(b) of the bill would require an effective date for the new chapter 80 of title 38 U.S.C. as added by subsection (a) of October 1, 2019.

Section 3(c) of the bill would require that, for fiscal years 2019 and 2020, the title number of the full-time equivalent employees authorized for the Veterans Benefits Administration and the Veterans Economic Opportunity and Transition Administration, as established under the new chapter 80 of title 38 U.S.C. as added by subsection (a) of the bill, may not exceed 23,692.

Section 4. Under Secretary for Veterans Economic Opportunity and Transition

Section 4(a) of the bill would amend chapter 3 of title 38 U.S.C. by inserting after section 306 the following new section: “306A. Under Secretary for Veterans Economic Opportunity and Transition”.

The new subsection 306A(a) would establish within VA 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 new subsection 306A(a) would also require that the Under Secretary for Veterans Economic Opportunity and Transition be appointed without regard to political affiliation or activity and solely on the basis of demonstrated ability in information technology and the administration of programs within the VEOTA or programs of similar content and scope.

The new subsection 306A(b) would require that the Under Secretary for Veterans Economic Opportunity and Transition is the head of, and directly responsible to the VA Secretary for the operations of, the VEOTA.

The new subsection 306A(c) would require that, whenever a vacancy in the position of Under Secretary for Veterans Economic Opportunity and Transition occurs or is anticipated, the VA Secretary shall establish a commission to recommend individuals to the President for appointment to the position. The new subsection 306A(c) would also require that such commission be composed of the following members appointed by the VA Secretary: three persons representing education and training, vocational rehabilitation, employment, real estate, mortgage finance and related industries, and survivor benefits activities affected by the VEOTA; two persons representing veterans served by the VEOTA; two persons who have

experience in the management of private sector benefits programs of similar content and scope to the VA economic opportunity and transition programs; the VA Deputy Secretary; the chairman of the Veterans' Advisory Committee on Education formed under section 3692 of title 38 U.S.C.; one person who has held the position of Under Secretary for Veterans Economic Opportunity and Transition if the VA Secretary determines that it is desirable for such person to be a member of the commission. The new subsection 306A(c) would further require that the commission established under this subsection recommend at least three individuals for appointment to the position of Under Secretary for Veterans Economic Opportunity and Transition and to submit all recommendations to the VA Secretary and the VA Secretary to forward the recommendations to the President and the Committees on Veterans' Affairs of the Senate and U.S. House of Representatives with any comments as the VA Secretary considers appropriate. It would also authorize the President to request the commission to recommend additional individuals for appointment. The new subsection 306A(c) would finally require the VA Assistant Secretary or Deputy Secretary who performs personnel management and labor relations functions to serve as the executive secretary of a commission established under this subsection and amend the table of sections at the beginning of chapter 3 of title 38 U.S.C. by inserting after the item relating to section 306 the following new item: "306A. Under Secretary for Veterans Economic Opportunity and Transition."

Section 4(b) of the bill would amend section 306(c)(2) of title 38 U.S.C.: by striking subparagraphs (A) and (E) and redesignating subparagraphs (B), (C), (D), and (F), as subparagraphs (A) through (D), respectively; in section 317(d)(2) by inserting after "Under Secretary for Benefits," the following: "Under Secretary for Veterans Economic Opportunity and Transition,,"; in section 318(d)(2), by inserting after "Under Secretary for Benefits, the following: "Under Secretary for Veterans Economic Opportunity and Transition,,"; 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"; 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"; 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"; in section 544(a)(2)(B)(vi), by striking "Health and Under Secretary for Benefits" and inserting "Health, the Under Secretary for Benefits, and the Under Secretary for Veterans Economic Opportunity and Transition"; in section 709(c)(2)(A), by inserting after "Under Secretary for Benefits," the following: "the Under Secretary for Veterans Economic Opportunity and Transition,,"; in section 7701(a), by inserting after "assistance" the following: ", other than assistance related to Economic Opportunity and Transition,,"; and in section 7703, by striking paragraphs (2) and (3) and redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

Section 4(c) of the bill would provide an effective date of October 1, 2019, for section 306A of title 38 U.S.C. as added by subsection (a) and the amendments made by this section.

Section 5. Loans guaranteed under home loan program of Department of Veterans Affairs

Section 5 of the bill would amend section 3729(b)(2)(E) of title 38 U.S.C. to increase the funding fees for interest rate reduction refinanced loans from 0.50 to 0.75 for loans made on or after January 1, 2019, but before October 1, 2024.

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 italic, and 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 italic, and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART I. GENERAL PROVISIONS

Chapter		Sec.
1. General		101
* * * * *		

PART V. BOARDS, ADMINISTRATIONS, AND SERVICES

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

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)] (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.

* * * * *

§ 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

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SUBCHAPTER I—GENERAL AUTHORITIES

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§ 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) 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) 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 sub-

mitted 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) The Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense).

(iii) The Secretary of the Interior (or a representative of the Secretary of the Interior designated by the Secretary of the Interior).

(iv) The Secretary of Commerce (or a representative of the Secretary of Commerce designated by the Secretary of Commerce).

(v) 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) 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 September 30, 2018.

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CHAPTER 7—EMPLOYEES

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SUBCHAPTER I—GENERAL EMPLOYEE MATTERS

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§ 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

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SUBCHAPTER II—HOSPITAL, NURSING HOME, OR DOMICILIARY CARE AND MEDICAL TREATMENT

* * * * *

§ 1720. Transfers for nursing home care; adult day health care

(a)(1) Subject to subsection (b) of this section, the Secretary may transfer to a non-Department nursing home, for care at the expense of the United States—

(A) a veteran—

(i) who has been furnished care by the Secretary in a facility under the direct jurisdiction of the Secretary; and

(ii) who the Secretary determines—

(I) requires a protracted period of nursing home care which can be furnished in the non-Department nursing home; and

- (II) in the case of a veteran who has been furnished hospital care in a facility under the direct jurisdiction of the Secretary, has received maximum benefits from such care; and
- (B) a member of the Armed Forces—
- (i) who has been furnished care in a hospital of the Armed Forces;
 - (ii) who the Secretary concerned determines has received maximum benefits from such care but requires a protracted period of nursing home care; and
 - (iii) who upon discharge from the Armed Forces will become a veteran.
- (2) The Secretary may transfer a person to a nursing home under this subsection only if the Secretary determines that the cost to the United States of the care of such person in the nursing home will not exceed—
- (A) the amount equal to 45 percent of the cost of care furnished by the Department in a general hospital under the direct jurisdiction of the Secretary (as such cost may be determined annually by the Secretary); or
 - (B) the amount equal to 50 percent of such cost, if such higher amount is determined to be necessary by the Secretary (upon the recommendation of the Under Secretary for Health) to provide adequate care.
- (3) Nursing home care may not be furnished under this subsection at the expense of the United States for more than six months in the aggregate in connection with any one transfer except—
- (A) in the case of a veteran—
 - (i) who is transferred to a non-Department nursing home from a hospital under the direct jurisdiction of the Secretary; and
 - (ii) whose hospitalization was primarily for a service-connected disability;
 - (B) in a case in which the nursing home care is required for a service-connected disability; or
 - (C) in a case in which, in the judgment of the Secretary, a longer period of nursing home care is warranted.
- (4) A veteran who is furnished care by the Secretary in a hospital or domiciliary facility in Alaska or Hawaii may be furnished nursing home care at the expense of the United States under this subsection even if such hospital or domiciliary facility is not under the direct jurisdiction of the Secretary.
- (b) No veteran may be transferred or admitted to any institution for nursing home care under this section, unless such institution is determined by the Secretary to meet such standards as the Secretary may prescribe. The standards prescribed and any report of inspection of institutions furnishing care to veterans under this section made by or for the Secretary shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.
- (c)(1)(A) In furnishing nursing home care, adult day health care, or other extended care services under this section, the Secretary

may enter into agreements for furnishing such care or services with—

(i) in the case of the medicare program, a provider of services that has entered into a provider agreement under section 1866(a) of the Social Security Act (42 U.S.C. 1395cc(a));

(ii) in the case of the medicaid program, a provider participating under a State plan under title XIX of such Act (42 U.S.C. 1396 et seq.); and

(iii) a provider of services eligible to enter into a contract pursuant to section 1745(a) of this title that is not otherwise described in clause (i) or (ii).

(B) In entering into an agreement under subparagraph (A) with a provider of services described in clause (i) of that subparagraph or a provider described in clause (ii) of that subparagraph, the Secretary may use the procedures available for entering into provider agreements under section 1866(a) of the Social Security Act.

(2) In applying the provisions of section 6704(a) of title 41 with respect to any contract entered into under this section to provide nursing home care of veterans, the payment of wages not less than those specified in section 6(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(b)) shall be deemed to constitute compliance with such provisions.

(d)(1) Subject to subsection (b) of this section, the Secretary may authorize for any veteran requiring nursing home care for a service-connected disability direct admission for such care at the expense of the United States to any non-Department nursing home. The Secretary may also authorize a direct admission to such a nursing home for nursing home care for any veteran who has been discharged from a hospital under the direct jurisdiction of the Secretary and who is currently receiving medical services as part of home health services from the Department.

(2) Direct admission authorized by paragraph (1) of this subsection may be authorized upon determination of need therefor—

(A) by a physician employed by the Department; or

(B) in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement,

based on an examination by such physician.

(3) The amount which may be paid for such care and the length of care available under this subsection shall be the same as authorized under subsection (a) of this section.

(e)(1) The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a)(2)(B) of this section shall be determined by the Secretary except that the rate of reimbursement shall be commensurately less than that provided for nursing home care.

(2) For the purposes of this section, the term “non-Department nursing home” means a public or private institution not under the direct jurisdiction of the Secretary which furnishes nursing home care.

(f)(1)(A) The Secretary may furnish adult day health care services to a veteran enrolled under section 1705(a) of this title who would otherwise require nursing home care.

(B) The Secretary may provide in-kind assistance (through the services of Department employees and the sharing of other Depart-

ment resources) to a facility furnishing care to veterans under subparagraph (A) of this paragraph. Any such in-kind assistance shall be provided under a contract or agreement between the Secretary and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of adult day health care and only if, under such contract or agreement, the Department receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

(2) The Secretary may conduct, at facilities over which the Secretary has direct jurisdiction, programs for the furnishing of adult day health care to veterans who are eligible for such care under paragraph (1) of this subsection, except that necessary travel and incidental expenses (or transportation in lieu thereof) may be furnished under such a program only under the terms and conditions set forth in section 111 of this title. The furnishing of care under any such program shall be subject to the limitations that are applicable to the duration of adult day health care furnished under paragraph (1) of this subsection.

(g) The Secretary may contract with appropriate entities to provide specialized residential care and rehabilitation services to a veteran of Operation Enduring Freedom or Operation Iraqi Freedom who the Secretary determines suffers from a traumatic brain injury, has an accumulation of deficits in activities of daily living and instrumental activities of daily living, and because of these deficits, would otherwise require admission to a nursing home even though such care would generally exceed the veteran's nursing needs.

(h)(1) During the three-year period beginning on October 1, 2019, and subject to paragraph (2), at the request of a veteran for whom the Secretary is required to provide nursing home care under section 1710A of this title, the Secretary may place the veteran in a medical foster home that meets Department standards, at the expense of the United States, pursuant to a contract, agreement, or other arrangement entered into between the Secretary and the medical foster home for such purpose. A veteran who is placed in a medical foster home under this subsection shall agree, as a condition of such placement, to accept home health services furnished by the Secretary under section 1717 of this title.

(2) In any year, not more than a daily average of 900 veterans placed in a medical foster home, whether placed before or after the date of the enactment of this subsection, may have their care covered at the expense of the United States under subsection (a).

(3) In this subsection, the term "medical foster home" means a home designed to provide non-institutional, long-term, supportive care for veterans who are unable to live independently and prefer a family setting.

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

* * * * *

§ 3729. Loan fee

(a) REQUIREMENT OF FEE.—(1) Except as provided in subsection (c), a fee shall be collected from each person obtaining a housing loan guaranteed, insured, or made under this chapter, and each person assuming a loan to which section 3714 of this title applies. No such loan may be guaranteed, insured, made, or assumed until the fee payable under this section has been remitted to the Secretary.

(2) The fee may be included in the loan and paid from the proceeds thereof.

(b) DETERMINATION OF FEE.—(1) The amount of the fee shall be determined from the loan fee table in paragraph (2). The fee is expressed as a percentage of the total amount of the loan guaranteed, insured, or made, or, in the case of a loan assumption, the unpaid principal balance of the loan on the date of the transfer of the property.

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

LOAN FEE TABLE

Type of loan	Active duty veteran	Reservist	Other obligor
(A)(i) Initial loan described in section 3710 (a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710 (a) other than with 5-down or 10-down (closed before January 1, 2004)	2.00	2.75	NA
(A)(ii) Initial loan described in section 3710 (a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710 (a) other than with 5-down or 10-down (closed on or after January 1, 2004, and before October 1, 2004)	2.20	2.40	NA

LOAN FEE TABLE—Continued

Type of loan	Active duty veteran	Reservist	Other obligor
(A)(iii) Initial loan described in section 3710 (a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710 (a) other than with 5-down or 10-down (closed on or after October 1, 2004, and before September 30, 2027)	2.15	2.40	NA
(A)(iv) Initial loan described in section 3710 (a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710 (a) other than with 5-down or 10-down (closed on or after September 30, 2027)	1.40	1.65	NA
(B)(i) Subsequent loan described in section 3710 (a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710 (a) (closed before September 30, 2027)	3.30	3.30	NA
(B)(ii) Subsequent loan described in section 3710 (a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710 (a) (closed on or after September 30, 2027)	1.25	1.25	NA
(C)(i) Loan described in section 3710 (a) to purchase or construct a dwelling with 5-down (closed before September 30, 2027)	1.50	1.75	NA

LOAN FEE TABLE—Continued

Type of loan	Active duty veteran	Reservist	Other obligor
(C)(ii) Loan described in section 3710 (a) to purchase or construct a dwelling with 5-down (closed on or after September 30, 2027)	0.75	1.00	NA
(D)(i) Initial loan described in section 3710 (a) to purchase or construct a dwelling with 10-down (closed before September 30, 2027)	1.25	1.50	NA
(D)(ii) Initial loan described in section 3710 (a) to purchase or construct a dwelling with 10-down (closed on or after September 30, 2027)	0.50	0.75	NA
[(E) Interest rate reduction refinancing loan	0.50	0.50	NA]
<i>(E)(i) Interest rate reduction refinancing loan (closed before January 1, 2019)</i>	0.50	0.50	NA
<i>(E)(ii) Interest rate reduction refinancing loan (closed on or after January 1, 2019, but before October 1, 2024)</i>	0.75	0.75	NA
<i>(E)(iii) Interest rate reduction refinancing loan (closed on or after October 1, 2024)</i>	0.50	0.50	NA
(F) Direct loan under section 3711	1.00	1.00	NA
(G) Manufactured home loan under section 3712 (other than an interest rate reduction refinancing loan)	1.00	1.00	NA
(H) Loan to Native American veteran under section 3762 (other than an interest rate reduction refinancing loan)	1.25	1.25	NA
(I) Loan assumption under section 3714	0.50	0.50	0.50
(J) Loan under section 3733 (a)	2.25	2.25	2.25

(3) Any reference to a section in the “Type of loan” column in the loan fee table in paragraph (2) refers to a section of this title.

(4) For the purposes of paragraph (2):

(A) The term “active duty veteran” means any veteran eligible for the benefits of this chapter other than a Reservist.

(B) The term “Reservist” means a veteran described in section 3701 (b)(5)(A) of this title who is eligible under section 3702(a)(2)(E) of this title.

(C) The term “other obligor” means a person who is not a veteran, as defined in section 101 of this title or other provision of this chapter.

(D) The term “initial loan” means a loan to a veteran guaranteed under section 3710 or made under section 3711 of this title if the veteran has never obtained a loan guaranteed under section 3710 or made under section 3711 of this title.

(E) The term “subsequent loan” means a loan to a veteran, other than an interest rate reduction refinancing loan, guaranteed under section 3710 or made under section 3711 of this title if the veteran has previously obtained a loan guaranteed under section 3710 or made under section 3711 of this title.

(F) The term “interest rate reduction refinancing loan” means a loan described in section 3710(a)(8), 3710(a)(9)(B)(i), 3710(a)(11), 3712(a)(1)(F), or 3762(h) of this title.

(G) The term “0-down” means a downpayment, if any, of less than 5 percent of the total purchase price or construction cost of the dwelling.

(H) The term “5-down” means a downpayment of at least 5 percent or more, but less than 10 percent, of the total purchase price or construction cost of the dwelling.

(I) The term “10-down” means a downpayment of 10 percent or more of the total purchase price or construction cost of the dwelling.

(c) WAIVER OF FEE.—(1) A fee may not be collected under this section from a veteran who is receiving compensation (or who, but for the receipt of retirement pay or active service pay, would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

(2)(A) A veteran described in subparagraph (B) shall be treated as receiving compensation for purposes of this subsection as of the date of the rating described in such subparagraph without regard to whether an effective date of the award of compensation is established as of that date.

(B) A veteran described in this subparagraph is a veteran who is rated eligible to receive compensation—

(i) as the result of a pre-discharge disability examination and rating; or

(ii) based on a pre-discharge review of existing medical evidence (including service medical and treatment records) that results in the issuance of a memorandum rating.

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PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

Chap.		Sec.
71	Board of Veterans' Appeals	7101
	* * * * *	
80.	Veterans Economic Opportunity and Transition Administration	8001
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CHAPTER 77—VETERANS BENEFITS ADMINISTRATION

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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.

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CHAPTER 80—VETERANS ECONOMIC OPPORTUNITY AND TRANSITION ADMINISTRATION

- Sec. 8001. *Organization of Administration.*
- 8002. *Functions of Administration.*
- 8003. *Annual report to Congress.*

§ 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 De-*

partment 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.*

§ 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) *The Transition Assistance Program under section 1144 of title 10.*
- (6) *Any other program of the Department that the Secretary determines appropriate.*

§ 8003. Annual report to Congress

The Secretary shall include in the annual report to the Congress required by section 529 of this title a report on the programs administered by the Under Secretary for Veterans Economic Opportunity and Transition. Each such report shall include the following with respect to each such program during the fiscal year covered by that report:

- (1) *The number of claims received.*
- (2) *The number of claims decided.*
- (3) *The average processing time for a claim.*
- (4) *The number of successful outcomes (as determined by the Secretary).*
- (5) *The number of full-time equivalent employees.*
- (6) *The amounts expended for information technology.*

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