

[Rollcall Vote No. 273 Leg.]

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YEAS—75

Akaka	Feingold	Moseley-Braun
Baucus	Feinstein	Moynihan
Bennett	Ford	Murray
Biden	Frist	Nunn
Bingaman	Glenn	Pell
Bond	Graham	Pressler
Boxer	Grassley	Pryor
Bradley	Harkin	Reid
Breaux	Heflin	Robb
Bryan	Hollings	Rockefeller
Bumpers	Hutchison	Roth
Burns	Inouye	Santorum
Byrd	Jeffords	Sarbanes
Chafee	Kassebaum	Shelby
Cochran	Kennedy	Simon
Cohen	Kerrey	Simpson
Conrad	Kerry	Snowe
Coverdell	Kohl	Specter
D'Amato	Lautenberg	Stevens
Daschle	Leahy	Thomas
DeWine	Levin	Thompson
Dodd	Lieberman	Thurmond
Domenici	Lugar	Warner
Dorgan	McConnell	Wellstone
Exon	Mikulski	Wyden

NAYS—22

Abraham	Gorton	Kyl
Ashcroft	Gramm	Lott
Brown	Grams	Mack
Campbell	Gregg	McCain
Coats	Helms	Nickles
Craig	Inhofe	Smith
Faircloth	Johnston	
Frahm	Kemphorne	

NOT VOTING—3

Hatch	Hatfield	Murkowski
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The motion to lay on the table the amendment (No. 5195) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, for the information of all Members, we are working now on getting a UC typed up that would lay out how the time will be used for the next hour. We are in the process now of typing up an agreement that would lay out the debate, and the votes over the next hour and a half. I think that would allow us to make good progress and be able to get to the conclusion of the VA-HUD bill, and either go to final passage after that, or, depending on a couple of other things, we are working on final passage and could have stacked votes Tuesday morning. But we will have that worked out momentarily.

The next thing we will do is to go to the next pending amendment for a vote. Senator GRAMM I believe has a second-degree amendment.

THE DEFENSE OF MARRIAGE ACT

Mr. LOTT. In the meantime, I ask unanimous consent that the Senate now turn to consideration of Calendar No. 499, H.R. 3396, the Defense of Marriage Act.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. LOTT. I move that the Senate proceed to the H.R. 3396, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 3396, the Defense of Marriage Act:

Senators Trent Lott, Bob Smith, Conrad Burns, Rod Grams, Larry E. Craig, Judd Gregg, Jim Inhofe, Hank Brown, Don Nickles, Dan Coats, Chuck Grassley, Craig Thomas, Frank H. Murkowski, Lauch Faircloth, Richard Shelby, Slade Gorton, Phil Gramm.

Mr. LOTT. Mr. President, I want our colleagues to know that I have been discussing this back and forth with the Democratic leader. He was aware that I was going to do this. We are working on a number of other issues that are not directly related necessarily to this. We also have an understanding that we are working out on exactly what time this vote might occur.

But I have just filed a cloture motion on the motion to proceed to H.R. 3396. Under rule XXII, the cloture vote will occur—we will either have this occur on Monday or agree to a time on Tuesday. I believe we are going to agree to a time on Tuesday when this vote will occur. So I think we are getting cooperation on that.

If we continue to work toward an agreement on the VA-HUD appropriations bill, and go ahead and get started next on the Interior appropriations bill, then we would probably have this vote on Tuesday morning around 10 o'clock. But we will make that official later on.

I now withdraw the motion to proceed.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The motion is withdrawn.

The Democratic leader.

Mr. DASCHLE. I just wanted to take a moment to explain that it is not our desire necessarily to hold up this piece of legislation. There is support on our side as well. Unfortunately, the majority leader has not been able to work out an agreement with us to accommodate a number of Senators on our side who wish to offer amendments. It was for that reason that I objected tonight.

Obviously, we will have a good debate about the bill. It will be my hope we could offer amendments, but at least at this time it does not appear to be likely. We will continue to work together and try to find a way to resolve these issues, but at least tonight that has not been resolved.

I yield the floor.

Mr. LOTT. I yield the floor, Mr. President.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, while the distinguished majority leader is here, I would just like to state I think Senator GRAMM is going to offer an amendment which I will accept, and then we will vote on the Domenici-Wellstone amendment as amended by the Gramm amendment.

AMENDMENT NO. 5196 TO AMENDMENT NO. 5194

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 5196 to amendment No. 5194.

Mr. DOMENICI. Could we have order, Mr. President.

The PRESIDING OFFICER. The Senator will suspend.

The Senate is not in order. Senators will take their conversations to the cloakroom, please, so the Senator from Texas can be heard.

The Senator from Texas.

Mr. GRAMM. Mr. President, it is a very short amendment. It will minimize the debate if we just have it read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

At the appropriate place in the amendment, insert the following: Notwithstanding the provisions of this title, if the provisions of this title result in a one percent or greater increase in the cost of a group health plan's premiums, the purchaser is exempt from the provisions of this title.

Mr. GRAMM. Mr. President, this amendment says that if Senator DOMENICI is wrong, and there are more than de minimis costs in expanding this coverage, and those costs exceed 1 percent, then the purchaser of that policy would be exempt.

I think this is a good stopgap measure. If the Senator is right and this coverage can be provided for one-sixth of 1 percent, then it will be provided. If it raises the cost of the policy more than 1 percent, the purchaser of the policy would be exempt.

I think it does improve the underlying amendment, and I am grateful the Senator has accepted it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, consistent with everything I knew when I brought the amendment to the floor,

the cost should not exceed a 1 percent increase, and therefore, in good faith to the Senators who supported me and supported the amendment, I accept this amendment as further evidence of what I have been saying in the Chamber for the last hour and a half.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment by the Senator from Texas.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, after working with the Democratic leader, I ask unanimous consent that the following amendments be the only amendments in order between now and 9:30 p.m.; that any votes ordered with respect to those amendments be stacked to begin at 9:30. They are as follows: Gramm second-degree amendment to Domenici, Domenici-Wellstone, Harkin Veterans' Administration amendment, Daschle spina bifida, and the Lott-Daschle Iraq resolution.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, only for the purposes of clarification, it is my understanding that the spina bifida amendment will either be up or down or a tabling motion. Is that correct?

Mr. LOTT. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object.

Mr. LOTT. Mr. President, let me consult before I respond completely on that point. Let me double check with the managers of the bill to make sure.

Is there something we can do in the interim while we make sure of the answer to that question?

Mr. GRAMM. Sure. Finish the amendment.

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Texas.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 5196) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Do we have the yeas and nays ordered on the underlying amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered on the underlying amendment.

Mr. DOMENICI. I ask for the yeas and nays on the Domenici-Wellstone amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Let me renew the unanimous-consent request and read it from the beginning again, because there have been some changes already.

I ask unanimous consent that the following amendments be the only amendments in order between now and 9:30, that any votes ordered with respect to those amendments be stacked to begin at 9:30. They are as follows: Since we have already dealt with the Gramm second-degree amendment to Domenici, the first vote beginning at 9:30 would be Domenici-Wellstone, followed by a motion to table the Harkin amendment, followed by a vote on a point of order on germaneness on the Daschle spina bifida amendment, followed by a vote on the Iraq resolution.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. There was not objection to that?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. On the final passage of VA-HUD, they are checking on that. That could also occur tonight or will occur stacked with other votes on Tuesday, probably beginning at 2:15. But the leader and I have discussed this, and I have his commitment that we will either do it tonight or we will do it in stacked votes on Tuesday. So we will basically be prepared to complete the VA-HUD appropriations bill either tonight, depending on one other outstanding issue, or we will definitely have the final vote on it at 2:15 on Tuesday. And we will plan on asking consent there be 10 minutes between these votes beginning at 9:30, so if Members stay in the Chamber, we could get them done quickly. And you will have time here now to get a bite to eat, and we will start this series of votes at 9:30 and hope we can wrap it up tonight.

Ten-minute votes, 10-minute votes, not between each vote.

Mr. President, let me go ahead and ask that now.

When the votes occur at 9:30, I ask unanimous consent that they be 10-minute votes; that there be 2 minutes between each vote equally divided to explain briefly exactly what the vote is, so Members will make sure they understand exactly what the vote is.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I see the Senator from Iowa is present. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 5197

(Purpose: To provide that funding for veterans medical care shall not be reduced to states)

Mr. HARKIN. I send an amendment to the desk on behalf of Senator MOYNIHAN, myself, and Senator SPECTER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. MOYNIHAN and Mr. SPECTER, proposes an amendment numbered 5197.

At the appropriate place, add the following:

SEC. . Without regard to any provision in this bill, no plan for the allocation of health care resources (including personnel and funds) used or implemented by the Department of Veterans Affairs among the health care facilities of the Department shall reduce the funding going to any state for veterans medical care for the fiscal year ending September 30, 1997, below its fiscal year 1996 level of funding if the total funding provided for veterans medical care in fiscal year 1997 exceeds the fiscal year 1996 funding level.

Mr. HARKIN. Mr. President, I wanted to have the amendment fully read so all Senators and staff watching on their television sets would know exactly what this amendment is all about.

The veterans of the United States have earned the right to decent health care and medical care. They have risked their health and their lives to secure the liberties that we all enjoy. As we allocate scarce dollars for veterans' health care, we must ensure that no State is unfairly cut. That is why I am rising here to offer an amendment that will ensure that no State will lose funding for veterans' health care this year if the overall budget for veterans' medical care increases, which it does in this bill. The budget goes from \$16.6 billion in fiscal year 1996 to \$17 billion in this bill, an increase of about 2.4 percent.

Why this amendment? Yesterday this body voted for an amendment by Senator MCCAIN that calls for changes in the funding formula for veterans' health care. I hope my colleagues understand the full impact of that amendment. I want to make sure my colleagues know the amendment that was adopted yesterday goes far beyond a mere study of the funding formula. I listened to some of the debate yesterday, and I talked with some Senators. They said to me, "This is just a study of the funding formula."

That amendment, adopted yesterday, calls for implementation of the plan without further action by Congress. Let me read the relevant part of that amendment.

(d) IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) [“shall” implement the plan developed under subsection (a)] not later than 60 days after submitting the plan to Congress under subsection (c), unless within that time the Secretary notifies Congress that the plan will not be implemented in that time and includes with the notification an explanation why the plan will not be implemented in that time.

That is the end of it.

So subsection (d) says the Secretary shall implement the plan within 60 days, not later than 60 days. It does not say that Congress has to do a darn thing. He just has to submit it to Congress, and then within 60 days, he has to implement it, unless within that time he submits or notifies Congress that the plan will not be implemented and spelling out the reasons why it will not be implemented.

I hope we all understand the full force and effect of this. The Secretary of Veterans Affairs will submit a plan to Congress for reorganization. The McCain amendment says it shall be implemented not later than 60 days, unless the Secretary turns right around and tells Congress, “Oh, no, we don’t want to implement it, and here are the reasons why we shouldn’t.”

That is about as bizarre as you can get, that the Secretary would come up with an implementation plan and then turn right around and tell Congress, “But it’s no good, and we don’t want to implement it.”

I urge my colleagues, each and every one of the Senators here, to call your regional network director to find out what the amendment will do to their States. I think you may be in for some surprises, because the VA, without notice to all of us, is already working to phase in a change in payments to the States over the next 2 years, and that change, which is similar to that called for under the McCain amendment this body adopted, would result in substantial cuts to many States’ VA medical care budgets, even with the 2.4 percent increase that this bill provides nationally.

The draft VA plan would significantly cut funds to Iowa. I only found out about the cuts because of an article in the August 23 issue of the Cedar Rapids Iowa Gazette that indicated that veterans centers in Iowa and Nebraska would be receiving \$12 million less in fiscal year 1997 than in fiscal year 1996. This reduction was confirmed by John T. Carson, director of the Central Plains Network, in a letter to my office.

Mr. President, this article goes on to show that there are going to be huge cuts in Iowa and in Nebraska, at least, under this article, and others, even though the total amount of money for VA health care is increased next year.

I have a letter from Mr. Carson spelling out the details of what it would mean for Network 14. The fiscal year 1996 base of distribution is \$268,035,000. The recommended fiscal 1997 allocation is \$255,942,000, a difference of over \$12

million less for that network, even though the funding nationally is going up.

Mr. President, I ask unanimous consent that this article and the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Cedar Rapids Iowa Gazette, Aug. 23, 1996]

VA OFFICIAL WARNS OF FUTURE IOWA CUTS
(By Lyle Muller)

Iowa City.—Iowa’s Veterans Affairs medical centers may have to cut more jobs next year if they cannot trim non-personnel expenses, a VA official said Thursday.

Any cuts would follow the 100-plus scheduled for after Oct. 1 at VA hospitals in Iowa City, Des Moines and Knoxville.

“One of the worrisome things is, will we have to continue that next year?” Tom Carson, director of the Department of Veterans Affairs’ regional office, said in Iowa City.

“I believe we all hope that we do not face what we faced this year,” he said, referring to a year of furloughs and finally decisions to cut jobs during the federal budget year that begins Oct. 1. “It’s a major troubling item we have facing us for fiscal year 1997.”

Carson said he expects the three Iowa centers and three more hospitals he oversees in Nebraska to spend \$12 million less next budget year than they received in federal funding this year.

The centers, which make up the VA Health Administration’s Central Plains Network, would be able to spend \$256 million next budget year, according to current plans.

That is about 4 percent less than this year’s \$268 million and marks a radical change from what Carson previously was expecting. Until this week, plans called for boosting spending at the Iowa and Nebraska centers by 2.5 percent.

Carson was in Iowa City for a monthly meeting with the directors of the Iowa and Nebraska centers. The anticipated funding cut was to receive most of the attention, he said.

On Tuesday, Iowa City’s VA Medical Center announced it will eliminate 39 jobs after Oct. 1.

Gary Wilkinson, director of the 1,200-employee, 165-bed Iowa City center, said he expected to spend \$72.6 million next budget year. That will be adjusted, however, because it reflected a 2.5 percent increase, he said.

“This last year we were in financial trouble; there’s no question about that,” Wilkinson said. “We decided there was this number of people that we couldn’t afford.”

Eliminating 39 jobs at the Iowa City center will save about \$1 million, officials there estimate.

The Des Moines center announced last month that it will drop 25 jobs. Knoxville has targeted 32 filled positions and 18 vacant ones for elimination.

DEPARTMENT OF VETERANS AFFAIRS,
NETWORK 14, MIRACLE HILLS
PARKVIEW PROFESSIONAL CENTER,
Omaha, NE, August 23, 1996.

PETER REINECKE,
Legislative Director, Senator Harkin’s Office,
U.S. Senate, Washington, DC.

DEAR MR. REINECKE: Thank you for your inquiry regarding the projected FY 97 budget for Network 14. As VHA changes its reimbursement methodology to a capitation system, the following resource adjustment occurs for Network 14:

Network 14:	
FY 96 Base for Distribution	\$268,035,000

Recommended FY 97 Allocation	255,942,000
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Difference 12,093,000

The specific details of the allocation methodology can be developed at your request. Mr. Steve Varnum, our Chief Financial Officer, is the best person to discuss this issue. Unfortunately, he is on vacation until September 3. If it is agreeable, we will have him call you on that day to discuss the allocation methodology.

We have asked each medical center for information on Category C veterans per your request. We will fax the information to you by September 3, 1996, if this is satisfactory.

Please contact us for any additional information you need.

Sincerely,

JOHN T. CARSON,

Director, Central Plains Network.

Mr. HARKIN. Mr. President, if that article had not appeared, I probably would have blindly gone forward and voted for the McCain amendment and voted for this bill, assuming that Iowa would get a 2.4 percent increase in its VA health care budget. After all, that is what is in the bill. The bill contains a 2.4 percent increase.

If we do not adopt the amendment that I just sent to the desk, I am concerned that my colleagues from the Midwest and many other States will also see massive cuts.

All my amendment does is ask for a little fairness in allocating the veterans health care budget. Our veterans in Iowa are older than the national average. We have the highest percentage of citizens over age 85 in the Nation—the highest. The health care that these, our oldest, veterans require is much more expensive than that for the general veteran population.

Any capitation funding formula that does not adequately account for these factors will be grossly unfair to States like Iowa, and the McCain amendment does not do the job. In fact, the amendment of the Senator from Arizona was specifically revised to strike the factoring in of the medical condition and, thus, the cost of caring for veterans from the distribution formula.

Let me repeat that. The Senator from Arizona specifically revised his amendment to strike the factoring in of the medical condition and, thus, the cost of caring for veterans from the distribution formula.

My friend, the Senator from Arizona, argues that the sheer number of veterans moving to his State creates an unfairness, but it is the younger, healthier, and generally better off retired vets who are moving to the sunshine States. It is the older, the sicker, and the poorer vets who are increasing in other States like Iowa. As a result, the McCain amendment and the VA draft plan are grossly unfair to our States.

While on the surface it may sound very nice to say we ought to allocate the money for just every veteran, that every veteran ought to count the same in allocating the money. On the surface it sounds generally reasonable that, if you have more veterans in one State,

they ought to get proportionally more than veterans in another State if that State has fewer veterans. But what about a State like Iowa or New York or Pennsylvania or Wisconsin or Indiana, or a lot of other States, where, again, our populations are older and they are poorer and they require this VA medical help?

I suppose my friend from Arizona might say, "Well, they are moving to Arizona," but I am sorry, Mr. President, that is not the case. It is the younger, the healthier, and the more prosperous ones who are moving to Arizona. What we are left with are those who are older and sicker and poorer, and they cost more to care for, especially in a rural area. This has to be taken into account.

It would be grossly unfair to equate an 80-year-old veteran, let's say, who is making \$12,000 a year or less and living in Iowa and has severe health problems with a 65-year-old veteran fully mobile who has moved to Arizona and plays golf every day. So the formula that the VA comes up with has to take the medical condition into account.

Mr. DASCHLE. Will the Senator from Iowa yield? I apologize for interrupting.

Mr. HARKIN. I will be delighted to yield, if I do not lose my right to the floor.

Mr. DASCHLE. Without losing his right to the floor. We have a number of pieces of legislation that have to be addressed in the next hour. We anticipated, given what the Senator from Iowa indicated to me that he only had 10 minutes, that it would take 10 minutes. We have now used a half hour of that time allotted. He certainly did not consume it all. But I am wondering whether it would be appropriate to get a unanimous-consent agreement that the time on the Harkin amendment will be terminated at 8:45 to allow other amendments to be debated so that we can assure the opportunity to vote on all of these at 9:30, as the unanimous-consent request was proposed.

Mr. HARKIN. I say to my leader, I thought it would only take about 10 minutes. I only wanted to make my point on them. I think the Senator from Arizona is probably going to rebut them. I am sorry. I apologize, I did not know we had a 9:30 time.

Mr. McCAIN. Mr. President, reserving the right to object, the Senator from Florida and I do not intend to take a lot of time. We understand what the distinguished Democratic leader is saying. In 2 or 3 minutes we can rebut the arguments of the Senator from Iowa.

I think it is very important we provide courtesy to other people with other amendments so they will have ample time, too. So, please, don't base your continued conversation on the fact that the Senator from Florida and I will take a lot of time. We don't need a lot of time, frankly, to rebut your arguments.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the time on

the Harkin amendment, with appropriate responses from the Senator from Arizona and others, be limited to no more than 20 minutes.

Mr. BOND. Mr. President, reserving the right to object, I think there are a couple minutes for both the Senator from Arizona and the Senator from Florida. I had 5 minutes. We started this at 8 o'clock. And I notified the Senator from Iowa we were trying to get going. If we could divide this. He has had an opportunity. If he could take 5 more minutes, and we could have 10 minutes.

Mr. HARKIN. I did not start at 8 o'clock. I apologize to my friends on the floor. I have been talking now for just a little over 7 minutes. I started about 7 minutes ago.

Mr. DASCHLE. Mr. President, 8:16 is when we were told from the desk you started. That is not the point. How much more time does the Senator from Iowa need?

Mr. McCAIN. I would take 2 minutes. I do not know about the Senator from Florida.

Mr. GRAHAM. Two minutes.

Mr. DASCHLE. That is 4 minutes. The Senator from Missouri had 5 minutes. That would be 9 minutes. How much time does the Senator from Iowa need?

Mr. HARKIN. Ten minutes.
Mr. DASCHLE. Mr. President, I proponent the unanimous-consent request 20 minutes to be divided, 2 minutes, 2 minutes, 5 minutes and 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, this body is making a major change in the dark, without adequate information of its impact on the States. I have asked the VA for a State-by-State breakdown of their draft reallocation plan so I could share it. However, the VA will not provide it to me. They will not provide it to me.

After begging and pleading for information, I found out that 8 of the 22 regional networks are scheduled to receive cuts under the draft plan. I believe that more would be cut under the McCain amendment because the VA is phasing in their change over 2 years. Under the draft VA plan, networks could see cuts as high as 15 percent next year alone.

Mr. President, I have an incomplete list of States and these networks that would be cut, up to 15 percent, despite a 2.4 percent increase in this bill. They are Iowa, Nebraska, California, Nevada, Michigan, Illinois, Indiana, Wisconsin, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, New Hampshire, Maine, Pennsylvania, West Virginia, Delaware, and Vermont. This is an incomplete and unofficial list. I have derived it from information provided by VA officials. So I want to assure you that this is not in any way complete.

Let me tell you about the probable impact on Iowa veterans.

Until a month ago the regional network for Iowa and Nebraska was count-

ing on a budget increase commensurate with the proposed 2.4-percent increase in the VA medical budget for fiscal year 1997. Even with this increase there have been significant layoffs at our hospitals and an increase in the number of veterans being turned away from medical care. They are being told "tough luck."

Let me just relay a couple of the stories. One of the Iowa veterans who has been shut out has multiple sclerosis. He qualifies for Social Security disabilities. But Medicare does not come close to covering all his medication costs. He is classified as a category C veteran because his wife works and makes about \$18,000.

Mr. President, let me remind you category C veterans are treated at the discretion of the VA. Because of the tight budgets, this veteran is being turned away without warning after coming to rely upon the Veterans' Administration for help. He is justifiably angry he is being dropped by the Government. He is worried about his medication bills. He and his wife are trying to be independent, but they need help from the VA medical center to make it.

There is another Iowa veteran who has diabetes, back problems, depression. He is on Social Security disability, Medicare. He has bought Medicare supplemental. He has been going to the VA medical center for his medications which cost over \$10,000 a year. If he were single he would be eligible for VA medical services. But his wife makes about \$25,000 a year. He is classified as category C. The local VA medical center has turned him away because of tight budgets. This veteran who faithfully served this country is trying to decide between dropping most of his medication for diabetes, depression and pain or separating from his wife.

Mr. President, can we in good conscience do this to our veterans?

A third Iowa veteran had rectal cancer. He had his anus, rectum, part of his colon, and part of a lung removed. He has had painful chemotherapy and radiation therapy. Despite all this, he is managing to keep a small business going, but he has been told he earns too much, cannot come back to the VA medical center for treatment. He is now faced with giving up his business just so he can get medical care.

These three veterans are far from unique in Iowa. And now, if Iowa is subject to this big cut, as opposed to a 2.4-percent increase in the Nation, it will get much, much worse.

This amendment has the support of the American Legion in Iowa, the Iowa AMVETS, the Iowa VFW.

Mr. President, I ask unanimous consent that letters from them be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION DEPARTMENT
OF IOWA, OFFICE OF THE DEPARTMENT
SERVICES OFFICE,

September 5, 1996.

Hon. TOM HARKIN.

DEAR SENATOR HARKIN: It was brought to our attention that you are going to be presenting an amendment before Congress proposing funding for the Department of Veterans Affairs medical centers not be reduced to the states.

We wanted you to know that The American Legion, Department of Iowa, wholeheartedly approves of this proposed Amendment.

We have many veterans who fall into the VA's Category C (veterans who make too much money to receive VA Health Care), and we do not wish any other veterans to be cut from the system.

The veterans of the United States deserve better treatment from our government and we hope that you are also working on getting rid of the "categories" that prohibit certain veterans from receiving health care they so desperately need. They served our country and believed our country would be there for them. It is ironic that the government called on them—yet will turn around and cut the funding for the veterans at the drop of a hat.

We thank you for your support and hope that your proposal is victorious.

Sincerely,

KRISTIN WALDRON,
Senior Claims Representative.

—
AMVETS,
DEPARTMENT OF IOWA,
Des Moines, IA, September 5, 1996.

To: Senator TOM HARKIN.

Attn: Kevin Aylesworth.

From: Robert O. Steben, National Service Officer, American Veterans of World War II, Korea, and Vietnam (AMVETS).

On behalf of the American Veterans of WWII, Korea, and Vietnam, I want to express our sincere support for your effort to ensure that funding for veterans medical care shall not be reduced to states.

We have many veterans who are already feeling the effects of cuts in services to veterans who had been receiving discretionary services. Further cuts would be devastating. . . . These veterans have served our country without concerns for their lives—many were wounded and died to save our country from tyranny. The least we can do for them is maintain 1st class medical programs for them—if it were not for the veterans we wouldn't have the comforts we all enjoy in this Great United States.

ROBERT O. STEBEN, AMVETS,
National Service Officer, Iowa.

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VETERANS OF FOREIGN WARS,
DEPARTMENT SERVICE OFFICER,
Des Moines, IA, September 5, 1996.

Senator TOM HARKIN,

Attn: Kevin Aylsworth.

Dear Sir: The Veterans of Foreign Wars, Department of Iowa, supports your proposal to retain equitable and appropriate funding for Iowa's veterans, and wish to thank you for your continued efforts on their behalf.

Very truly yours,

M. TERRY LIPOVAC,
Department Service Officer.

Mr. HARKIN. Mr. President, I ask my colleagues, what is the Department of Veterans Affairs planning to do to the veterans of your State? We are doing something here in the dark without any information on their impact on the States. My amendment simply says this, that if there is an increase like there is in this bill, that no State will get less than what they did last year.

That means that Mr. MCCAIN in Arizona and perhaps Mr. GRAHAM in Flor-

ida and other sunshine States, they can get the increase, but at least do no harm. That is what my amendment does. It borrows from the adage: First, do no harm. We are about to rush in, make rash changes in the VA medical care funding allocations, and in a lot of our States, a lot of veterans are going to get hurt.

So let us not do any harm. All my amendment says is—we will cede the increase—but let us next year hold the States harmless, that no State will get a cut next year. And then let us see what the VA's plan really does when they come to Congress next year. I reserve the balance of my time.

Mr. BOND. Mr. President, the Senator from Arizona has agreed that his 2 minutes can be allocated to the Senator from Florida. So I ask the full 4 minutes be allocated to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, this amendment which was adopted overwhelmingly by the Senate, today being the third or fourth instance in which this amendment has been adopted, speaks to a simple principle. And that is, that the Nation's commitment to provide for the health care of its veterans is a national commitment, and that that commitment runs to individual veterans, not to them through the State in which they happen to live.

These facilities that provide the services are facilities of the Federal Government, financed and administered under laws that we enact. Our responsibility is to individual veterans. The principle of this amendment is that those veterans should be treated equitably.

The fundamental operative provision of the amendment which this Senate has adopted is that the Department of Veterans Affairs, among the health care networks of the department, shall allocate health care resources so as to assure that veterans who have similar economic status and eligibility priority and who are eligible for medical care have similar access to such care regardless of the region of the United States in which such veterans reside, a fundamental principle of fairness. And that, Mr. President, has been the objective of the Veterans' Administration for over a decade.

Prior to 1985, the Veterans' Administration followed the principle that the Senator from Iowa is advocating we return to. And that is, that you look first at what were expenditures in the previous year, make incremental adjustments to those previous expenditures, and that becomes the funding level for the future.

According to a report by the General Accounting Office, dated February 1996, the VA historically allocated funds to facilities on the basis of the facility's past expenditures with incremental increases for such factors as inflation and new programs.

Beginning in 1985—I repeat, beginning in 1985—the Veterans Administration modified its allocation system because it recognized the need to more directly relate funding to the work performed, the cost to perform it, and to improve the efficiency and productivity with which medical care is delivered to veterans. We have not had the plan that the Senator from Iowa suggested for a decade.

This same GAO report indicates we need to move further in order to accomplish the objective, that we still have a system which does not treat all of our veterans fairly according to their eligibility standards, their economic status, and their eligibility for and need for medical services. The GAO report states in part, "Because of differences in facility rationing practices, veterans' access to care systemwide is uneven. We found that higher income veterans receive care at many facilities while lower income veterans were turned away at other facilities."

That is the system that we have today. Mr. President, there are a number of reasons why this is occurring. A fundamental reason is the fact that veterans are, as a part of our population, becoming a smaller group. We have fewer veterans today than we did 5 years ago and we will have still fewer 5 years into the future, and veterans are not distributing themselves proportionately across the country.

For example, in the State of Arizona, between 1980 and 1995, the number of veterans increased by 89,000 or 24 percent. There were 24 percent more veterans in Arizona in 1995 than in 1980. In the State of the proponent of this amendment, the number of veterans in the same 15-year period declined by 68,000 or almost 19 percent. Yet the Senator is advocating a proposition that says regardless of the number of veterans being served—my State happens to have a declining population while another State has an increasing population—we should, for some arbitrary reason, fix on the past and say that will be the basis on which we will distribute our Veterans' Administration funds for medical care, not taking into account what that means in terms of per patient recipient of funds or what it may mean in terms of encouraging greater efficiency and effectiveness in the use of funds available.

I could give stories similar to the one that the Senator from Iowa has just given about former residents of his State who now live in my State who say, "When I lived in my previous residence I was able to get certain prescriptions from the VA center. I cannot get them now in my new home. I was able to get treatment for a condition in my previous residence through the VA. I cannot receive it in my new home because of inadequate resources and inequitable allocation of funds."

Mr. President, the principle of the amendment of the Senator from Arizona and myself is a simple one: The Nation's responsibility is to individual

veterans wherever they live. And to fulfill that responsibility, we should pursue the goal of treating all veterans equally wherever they might live, and the responsibility is upon the Veterans Administration to reach that goal.

We have outlined a plan which the Veterans' Administration supports. They support the amendment that this Senate has already adopted because they recognize that it is a road back to achieve the objective which they have been pursuing since 1985.

Mr. President, I urge the Senate recommit itself to the principle of fairness that was adopted earlier in the debate on this issue and reject the amendment of the Senator from Iowa, which would return us to a period of a decade in the past and would return us to a time in which we did not accept the principle that all veterans should be treated equally, because all veterans in the same economic conditions, the same health status, have served this Nation with equal valor and commitment and deserve to be treated fairly.

Mr. BOND. Mr. President, reluctantly I state that I cannot support the Harkin amendment. The amendment, as has been recognized, is directly in conflict with the McCain amendment we adopted yesterday, which the Senate approved in a 79 to 18 vote. I am very sympathetic to the concerns of the Senator from Iowa that certain VA facilities may be losing resources relative to other facilities as the Veterans Administration changes its operations to become more like an efficient, modern, managed care organization.

I am fully supportive of the steps VA is taking to change the way it operates. Frankly, I believe the changes initiated by the VA under Secretary for Health Dr. Ken Kaizer represent very positive steps for the betterment of veterans' health care, and the McCain amendment is completely consistent with the bold and necessary steps being taken by Dr. Kaizer to ensure approved quality of care for veterans.

I do not minimize that the steps being taken are painful. The VA has never experienced so much change in so little time. However, with declining discretionary resources, a shift in the veteran population to Sunbelt States, a decline in the veteran population, and rapid changes in health care delivery, the VA must, indeed, make changes.

The McCain amendment reflected the findings of a GAO report of February 1996 which found the VA's traditional method of allocating resources was not equitable, it was not population based, and some facilities were receiving twice as much funding per patient as other facilities. In response to GAO's findings and in recognition of the need to change its traditional resource allocation method, the Veterans' Administration has begun moving toward a parity-based capitated model for resource allocation. I emphasize that, despite what some newspaper stories may have stated, no final allocations have yet been determined.

In the process of allocating the resources more equitably, a process which is to be fully implemented in fiscal year 1998, there are going to be some areas in some facilities which are winners. There are going to be some facilities which are losers. There are different populations served by those facilities. It is the right direction for the VA to be pursuing. It will bring about efficiencies, fairness, and improved care. We should not stand in the way of these important improvements. We have already seen the elimination of some redundancies as closely located facilities merge their administrative services and as VA opens community-based outpatient clinics in lieu of providing high-cost hospital-based care.

In my own State of Missouri, the Poplar Bluff, MO, Veterans' Administration recently closed inpatient surgical procedures because of the inadequate workload and excessive mortality rates. The decision to close that portion of the facility was painful and four doctors lost their jobs. But it was the right decision. It was the right decision for the facility, for the system, but, most importantly, it was the right decision for veterans' health care.

The Harkin amendment is unacceptable partly because at this time VA does not know what the specific allocation to each hospital will be for fiscal year 1997 since the model for resource allocation for fiscal year 1997 is still under development. Frankly, it is possible that some facilities could receive less than the fiscal year 1996 level. Moreover, the allocation will not be individually to hospitals but rather to the 22 networks, each of which encompass several VA facilities and which we can hope will be based on the need and the population in each area.

I should add, very importantly, that the Veterans' Administration is opposed to the amendment as it takes a step backward to the progress it is attempting to make. The VA has said the only obstacle to better health care for veterans is likely to be Congress. If we are looking at how many jobs in how many facilities and trying to legislate those into place and into being, we will prevent an improvement in the system.

The VA has stated it intends to provide health care services to the 2.8 million veterans currently receiving care. Even with the resource adjustments within the system, VA does not expect to deny patients care who are now getting care in any of its 22 networks.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HARKIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Iowa has 4 minutes.

Ms. MIKULSKI. Will the Senator yield 1 minute to me?

Mr. HARKIN. I am delighted to yield a minute to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I see no discrepancy between the McCain

amendment that we adopted last night and what Senator HARKIN is doing. Senator HARKIN is essentially doing a bridge and ensuring that those States that might have to make readjustments under the new plan that is being suggested can do so, which I voted for; I voted for McCain. But doing McCain without Harkin is going to send out panic in the Northeast-Northwest corridor. We want to have full-scale cooperation. We want to do the plan being suggested in an orderly, rational way. We don't need administrators doing damage control instead of patient management. I do not see the discrepancy.

Senator HARKIN's amendment is for 1 year, this fiscal year, providing the bridge, because the Veterans' Administration does not have a plan. This does not prohibit McCain from going forward in terms of the plan and giving us the report in 60 days, beginning to implement the 60 days. You can do that, but it is going to take a full year to do it. With all due respect to the VA, they are, at times, a bit sluggish. This will at least give a year. I see that as a bridge. I thank the Senator from Iowa. I support the McCain amendment, I support the Harkin amendment, and I support the veterans. God bless America.

Mr. HARKIN. I thank the Senator from Maryland. I had written down here that a vote for my amendment does not contradict a vote for McCain at all. The Senator from Maryland pointed that out. What I am saying is that, for the first year, all of the increase can go to Florida and can go to Arizona, these high-growth States. All we are saying is, don't cut the legs out from underneath those States, so we at least have 1 year to figure out what is going on here. That is why I offered this amendment. I am not trying to fix on the past. I am not advocating that at all. I want efficiencies. But any plan that does not take into account the age and the illness, rural areas, that type of thing, I am sorry, that is not a good plan.

Again, I point out that last night the Senator from Arizona modified his amendment. If you read the first page, what was modified and stricken out—it says this as it was first written:

The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources in the Department of Veterans Affairs among the health care facilities of the department so as to ensure that veterans who have similar economic status and eligibility priority or medical conditions. . . .

Guess what was stricken out? "Or medical conditions." That is what I am talking about. This amendment says wait a minute, you have to take into account medical conditions. I say to my friend from Florida, that is why I think we need a year, as the Senator from Maryland said, as a bridge. I know that the number of veterans in Iowa is going down. They are going up in Florida and in Arizona. I understand that. But keep in mind, as I keep saying, that the ones we have left are the

older and the poorer of the veterans. They don't deserve to have their legs cut out from underneath them in one fell swoop. Let us be careful.

The PRESIDING OFFICER. All time has expired on debate on this amendment.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

AMENDMENT NO. 5190

(Purpose: To provide benefits for certain children of Vietnam veterans who are born with spina bifida, and to offset the cost of such benefits by requiring that there be an element of fault as a precondition for entitlement to compensation for a disability or death resulting from health care or certain other services furnished by the Department of Veterans Affairs)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. KERRY, Mr. ROCKEFELLER, Mr. WELLSTONE, Ms. MIKULSKI, Mr. BYRD, Mr. DODD, Mr. CONRAD, Mr. INOUE, Mr. PELL, Mr. SIMON, Mr. FEINGOLD, Mr. BREAUX, Mrs. BOXER, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. ROBB, Mr. KENNEDY, Mr. FORD, Mr. REID, Ms. MOSELEY-BRAUN, Mr. LEAHY, Mr. HOLLINGS, and Mr. KOHL, proposes an amendment numbered 5190.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 97, between lines 15 and 16, insert the following:

SEC. 421. (a) The purpose of this section is to provide for the special needs of certain children of Vietnam veterans who were born with the birth defect spina bifida, possibly as the result of the exposure of one or both parents to herbicides during active service in the Republic of Vietnam during the Vietnam era, through the provision of health care and monetary benefits.

(b)(1) Part II of title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

“CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA

“Sec.

“1801. Definitions.

“1802. Spina bifida conditions covered.

“1803. Health care.

“1804. Vocational training and rehabilitation.

“1805. Monetary allowance.

“1806. Effective date of awards.

“§ 1801. Definitions

“For the purposes of this chapter—

“(1) The term ‘child’, with respect to a Vietnam veteran, means a natural child of the Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam during the Vietnam era.

“(2) The term ‘Vietnam veteran’ means a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

“§ 1802. Spina bifida conditions covered

“This chapter applies with respect to all forms and manifestations of spina bifida except spina bifida occulta.

“§ 1803. Health care

“(a) In accordance with regulations which the Secretary shall prescribe, the Secretary shall provide a child of a Vietnam veteran who is suffering from spina bifida with such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition.

“(b) The Secretary may provide health care under this section directly or by contract or other arrangement with any health care provider.

“(c) For the purposes of this section—

“(1) The term ‘health care’—

“(A) means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative and rehabilitative care, case management, and respite care; and

“(B) includes—

“(i) the training of appropriate members of a child’s family or household in the care of the child; and

“(ii) the provision of such pharmaceuticals, supplies, equipment, devices, appliances, assistive technology, direct transportation costs to and from approved sources of health care, and other materials as the Secretary determines necessary.

“(2) The term ‘health care provider’ includes specialized spina bifida clinics, health care plans, insurers, organizations, institutions, and any other entity or individual who furnishes health care that the Secretary determines authorized under this section.

“(3) The term ‘home care’ means outpatient care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to an individual in the individual’s home or other place of residence.

“(4) The term ‘hospital care’ means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

“(5) The term ‘nursing home care’ means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

“(6) The term ‘outpatient care’ means care and treatment of a disability, and preventive health services, furnished to an individual other than hospital care or nursing home care.

“(7) The term ‘preventive care’ means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines necessary to provide effective and economical preventive health care.

“(8) The term ‘habilitative and rehabilitative care’ means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 of this title) as are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of a disabled person.

“(9) The term ‘respite care’ means care furnished on an intermittent basis for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.

“§ 1804. Vocational training and rehabilitation

“(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of a Vietnam veteran who is suffering from spina bifida if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

“(b) Any program of vocational training for a child under this section shall be de-

signed in consultation with the child in order to meet the child’s individual needs and shall be set forth in an individualized written plan of vocational rehabilitation.

“(c)(1) A vocational training program for a child under this section—

“(A) shall consist of such vocationally oriented services and assistance, including such placement and post-placement services and personal and work adjustment training, as the Secretary determines are necessary to enable the child to prepare for and participate in vocational training or employment; and

“(B) may include a program of education at an institution of higher education if the Secretary determines that the program of education is predominantly vocational in content.

“(2) A vocational training program under this subsection may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment.

“(d)(1) Except as provided in paragraph (2) and subject to subsection (e)(2), a vocational training program under this section may not exceed 24 months.

“(2) The Secretary may grant an extension of a vocational training program for a child under this section for up to 24 additional months if the Secretary determines that the extension is necessary in order for the child to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan of vocational rehabilitation formulated for the child pursuant to subsection (b).

“(e)(1) A child who is pursuing a program of vocational training under this section and is also eligible for assistance under a program under chapter 35 of this title may not receive assistance under both such programs concurrently. The child shall elect (in such form and manner as the Secretary may prescribe) the program under which the child is to receive assistance.

“(2) The aggregate period for which a child may receive assistance under this section and chapter 35 of this title may not exceed 48 months (or the part-time equivalent thereof).

“§ 1805. Monetary allowance

“(a) The Secretary shall pay a monthly allowance under this chapter to any child of a Vietnam veteran for any disability resulting from spina bifida suffered by such child.

“(b)(1) The amount of the allowance paid to a child under this section shall be based on the degree of disability suffered by the child, as determined in accordance with such schedule for rating disabilities resulting from spina bifida as the Secretary may prescribe.

“(2) The Secretary shall, in prescribing the rating schedule for the purposes of this section, establish three levels of disability upon which the amount of the allowance provided by this section shall be based.

“(3) The amounts of the allowance shall be \$200 per month for the lowest level of disability prescribed, \$700 per month for the intermediate level of disability prescribed, and \$1,200 per month for the highest level of disability prescribed. Such amounts are subject to adjustment under section 5312 of this title.

“(c) Notwithstanding any other provision of law, receipt by a child of an allowance under this section shall not impair, infringe, or otherwise affect the right of the child to receive any other benefit to which the child may otherwise be entitled under any law administered by the Secretary, nor shall receipt of such an allowance impair, infringe, or otherwise affect the right of any individual to receive any benefit to which the individual is entitled under any law administered by the Secretary that is based on the child’s relationship to the individual.

“(d) Notwithstanding any other provision of law, the allowance paid to a child under this section shall not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program.

“§ 1806. Effective date of awards

“The effective date for an award of benefits under this chapter shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application for the benefits.”.

(2) The tables of chapters before part I and at the beginning of part II of such title are each amended by inserting after the item referring to chapter 17 the following new item: **“18. Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida 1801”.**

(c) Section 5312 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out “and the rate of increased pension” and inserting in lieu thereof “, the rate of increased pension”; and

(B) by inserting after “on account of children,” the following: “and each rate of monthly allowance paid under section 1805 of this title,”; and

(2) in subsection (c)(1), by striking out “and 1542” and inserting in lieu thereof “1542, and 1805”.

(d) This section and the amendments made by this section shall take effect on January 1, 1997.

SEC. 422. (a) Section 1151 of title 38, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

“(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability or a qualifying death of a veteran in the same manner as if such additional disability or death were service-connected. For purposes of this section, a disability or death is a qualifying additional disability or qualifying death if the disability or death was not the result of the veteran’s willful misconduct and—

“(1) the disability or death was caused by hospital care, medical or surgical treatment, or examination furnished the veteran under any law administered by the Secretary, either by a Department employee or in a Department facility as defined in section 1701(3)(A) of this title, and the proximate cause of the disability or death was—

“(A) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault on the part of the Department in furnishing the hospital care, medical or surgical treatment, or examination; or

“(B) an event not reasonably foreseeable; or

“(2) the disability or death was proximately caused by the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.”; and

(2) in the second sentence—

(A) by redesignating that sentence as subsection (b);

(B) by striking out “, aggravation,” both places it appears; and

(C) by striking out “sentence” and substituting in lieu thereof “subsection”.

(b)(1) The amendments made by subsection (a) shall take effect on October 1, 1996.

(2) Section 1151 of title 38, United States Code (as amended by subsection (a)), shall govern all administrative and judicial determinations of eligibility for benefits under

such section that are made with respect to claims filed on or after the effective date set forth in paragraph (1), including those based on original applications and applications seeking to reopen, revise, reconsider, or otherwise readjudicate on any basis claims for benefits under such section 1151 or any provision of law that is a predecessor of such section.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the amount of time allocated to this amendment not exceed 15 minutes with the time evenly divided between myself and the Senator from Missouri, Senator BOND.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, we had the debate on this amendment this morning, so this is meant simply to be a summary statement. Let me begin by reminding my colleagues about the mission of agent orange and the Agent Orange Act of 1991.

The Agent Orange Act of 1991 was passed unanimously, 99-0, with the co-sponsorship of my colleague from Wyoming, Senator SIMPSON. It requires the Department of Veterans Affairs to evaluate scientific findings from the National Academy of Sciences, based on their review of all related evidence.

This year, the National Academy of Sciences found compelling evidence, based on scientifically sound epidemiological studies, to place spina bifida in the second category of compensated diseases. As I mentioned earlier, the VA already covers all of the conditions in categories 1 and 2, except spina bifida, because the Secretary doesn’t have the authority to provide these benefits to children of veterans.

We are not here today to debate the underpinnings of the original law. What we are here today to do is to talk about our obligation. The battle about the original law was fought and won. That ended 5 years ago.

We have a reasonable proposal to address the unique needs of these kids, whose disabilities are linked to their parent’s exposure to agent orange. I don’t have to remind any of my colleagues that the National Academy of Sciences is a highly respected, non-partisan research organization. Congress regularly relies on the National Academy of Sciences to provide unbiased, scientifically sound information. It is very unfortunate, as some of my colleagues have done, to criticize their professionalism simply because one disagrees with its findings.

NAS has assembled a panel of expert scientists to review all of the signs associated with agent orange exposure. They found several epidemiological studies that supported an association between parental exposure to agent orange and the presence of spina bifida in children. NAS found the reanalysis of the Ranch-Hand study particularly compelling. They compared Vietnam veterans with non-Vietnam veterans and accounts of exposure. Despite the comments of the Senator from Wyoming this morning, they have indeed found a higher incidence of spina bifida

in the children of Vietnam veterans. That is what led them to conclude what they did in the report last spring.

That report states simply:

Neural tube birth defects were in excess among offspring of Ranch Hands with four total cases in contrast to none among the comparison infants.

This translates into a rate of 5 per 1,000, significantly higher than CDC’s normal spina bifida rate of 4.5 per 10,000.

In other words, there is a four times higher level of incidence of spina bifida with agent orange exposure than there is with no agent orange exposure, according to this study. These findings are statistically significant. And that is what the law requires. If you see a significant statistical difference, you have to reflect that in the requirements provided in the law that passed in 1991.

Furthermore, in addition to the Ranch Hand study, a number of studies of veterans appear to show an elevated relative risk for either service in Vietnam or estimated exposure to herbicides or dioxin, and the presence of neural tube defects in their offspring. For those interested in reading an unbiased analysis of the strengths and weaknesses of each study, I certainly refer you to the NAS report.

Mr. President, we could talk for the rest of the night, if we had the time, about the science of this issue. The real question is: Who ought to get the benefit of the doubt? Who should deserve the benefit of the doubt, given the commitment made by our veterans in Vietnam, now more than 20 years ago? Do we give it to the veterans and their children, or do we give it to those who would argue that we need more information, more science, more data, even though the accumulation of data has already demonstrated a clear association?

By placing spina bifida in the second category, NAS, the experts we chose 5 years ago to advise us, concluded there is evidence suggestive of an association. The law set a standard of positive association that we are relying upon in this amendment. When the credible evidence for an association is equal to or outweighs the evidence against an association, the benefit of the doubt, by law, must go to the veteran. The law specifically does not require evidence of cause and effect.

Reconciliation has not happened and is not in sight. As a result, the provision identified in the amendment can be used as savings to pay the very limited benefits we are talking about today. This widely supported provision would insert into the law a fault requirement to limit the VA’s liability in non-malpractice related cases.

Regardless of what arguments can be put forth by others, the fact that a hearing is being held later this month is an argument that, in my view, is not relevant to the debate on this amendment. It is not even dealing with the issue. Those interested in addressing

the issues raised by the March report have been working for months to design an appropriate solution.

This amendment is strongly supported by veterans and disability communities. Veterans and their families have waited decades for the confirmation embedded in these findings. They should not have to wait any longer.

This amendment is clearly germane to the underlying bill. It is a veterans issue, and this is a veterans bill. We are not going to be fooling America's veterans by suggesting that somehow this is not germane. Opponents of this amendment should not be able to hide behind some convenient, questionable procedural motion. This is germane. It is relevant. And the time to act is now.

We cannot wait any longer. Let us treat spina bifida as we do all the other diseases that we have already determined have a direct association to agent orange exposure. Let us give veterans and their children the means and support necessary to deal with the problems associated with this crippling disability.

I yield the floor.

Mr. BOND. Mr. President, we have had a lot of debate, a lot of heated rhetoric, and a lot of stirring stories of personal tragedies during this morning's session and tonight, and there is a lot of emotion involved. I think it is reasonable to understand why there is emotion, because every year in the United States there are approximately 150,000 babies born with serious birth defects. There are congenital heart defects, Down's syndrome, neural tube defects, primarily spina bifida. Of those birth defects, about 4,000 babies have spina bifida.

Over the past several years, I have worked with the March of Dimes attempting, with some success, to get the Centers for Disease Control funding for their prevention programs in research to find out what causes these problems, to set up a surveillance and monitoring program so that we can have some sound evidence as to what causes these defects. Some research on spina bifida is already bearing fruit. There is a connection between mothers taking folic acid early in pregnancy, and reduced rates of the incidence of spina bifida have been found. This is good news. This is good science. We are making some progress. But a lot more work needs to be done on the causes, the incidence, and the protections.

Now we come to the recent actions by the National Academy of Sciences. Let me be clear that the agent orange law does not require us to expand an entitlement on this bill. The Agent Orange law does not apply to children or offspring of veterans. The agent orange law sets up some presumptions, but they have to be based on science, which is not present here.

The National Academy of Sciences in their review this past spring found in one study what the authors called a possible association between exposure and spina bifida in the offspring of vet-

erans. The National Academy of Sciences then presented this information to the Veterans' Administration with the caution on how the study should be used. In fact, in that study, the task force emphasizes that its conclusions "made for the limited purposes of PL-10234 do not reflect a judgment that a particular health outcome has shown to be caused by, or in some cases even definitely associated with, herbicide exposure under the standards ordinarily governing such conclusions for purposes of scientific inquiry and medical care."

So much for the contentions that there is compelling scientific evidence. They said there was not.

Later this summer, the author of the study, the Ranch Hand study, told us in testimony before the House that his study was not adequate to make a decision that there was a causal link. He cautioned the House, and said do not count on a causal link from this study. It does not show it.

Then, on July 29, the minority leader introduced legislation which used the study to create this new entitlement program. There has not been a hearing held on it in the authorizing committee.

But there is also some new information that, frankly, I just came across. The Air Force has now sent a letter to Congress, dated August 29, in which they state in their 1996 progress report on the bottom of page 3—this is on the Ranch Hand study, the one study which reported to show any connection:

We found no indication of increased birth defects severity, delays in development, or hyperkinetic syndrome with paternal dioxin. The data provides little or no support for the theory that external exposure to Agent Orange and its dioxin contaminant is associated with adverse reproductive outcomes.

Mr. President, I think that there is a very real question of whether there is any—certainly this has not been demonstrated—scientific evidence of a linkage.

It is time for cooler heads to prevail. We have all expressed our concerns over birth defects. The amendment is not supported by sound scientific evidence. It is not even uniformly supported by veterans groups who recognize that the impact of the amendment will mean reduced benefits to veterans as a result of new entitlements and health care for dependents.

There are many questions which the debate has raised which deserve full consideration in the normal legislative process before the authorizing committee. The opponents of this amendment have every bit as much compassion for people with these disabilities such as spina bifida. All we are saying is let us get the science that establishes the linkage. It is not there. Let us not jump into something that is so lacking in scientific evidence.

That is precisely why we have a separate procedure in this body to consider legislation, particularly legislation setting up an entitlement program

with hearings and actions before an authorizing committee.

Since this is an attempt to set up an entitlement program, and it has not been heard before or acted upon by the authorizing committee, I raise a point of order that this amendment is not germane.

The PRESIDING OFFICER. The Chair would suggest that the manager of the bill withhold his request as the minority leader still has 50 seconds of his time.

Mr. DASCHLE. Mr. President, I yield that time to the distinguished Democratic whip.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I have listened to my colleague from Missouri talk about the March of Dimes. I started with the March of Dimes. We raised \$800 trying to find a polio vaccine until it was completed. For 25 years I have worked with the March of Dimes and scholarships. The March of Dimes can't be used to stop this amendment. The veterans and their children deserve the vote of this Senate.

If you could listen to the Democratic leader and the statements he has made, if you want to vote against the Vietnam veterans' children with spina bifida, you go ahead and do it. Then we will see who suffers the consequences. We are talking about children here. Let us be compassionate tonight, and not be so hard that we say to these Vietnam veterans there is even the possibility that they should not be taken care of.

I hope the Senate will join the Democratic leader and support his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri has 49 seconds.

Mr. BOND. Mr. President, the argument about political retribution for somebody who demands scientific evidence and wants to provide a fair hearing and a scientific basis for action is one which does not, I think, serve this body well. I think we have a proper procedure for determining whether there is scientific evidence. To date, there has been none shown. That is why when I said this is entitlement legislation being offered on an appropriations bill, it is not germane to the appropriations process. And, for that reason, I raise this point of order that this amendment is not germane.

The PRESIDING OFFICER. The question should be submitted to the Senate.

Does the Senator request the yeas and nays?

Mr. BOND. I ask for the yeas and nays on the question of germaneness.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UNITED STATES RESPONSE TO
IRAQI AGGRESSION

Mr. DASCHLE addressed the Chair.