ROBERT L. JESSE, MD, PH. D., PRINCIPAL DEPUTY UNDER SECRETARY FOR HEALTH, VETERANS HEALTH ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENT OF VETERANS AFFAIRSSTATEMENT OF
ROBERT L. JESSE, MD, PH. D.
PRINCIPAL DEPUTY UNDER SECRETARY FOR HEALTH
VETERANS HEALTH ADMINISTRATION
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BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. SENATE
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Good Morning Chairman Murray, Ranking Member Burr and Members of the Committee:

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

S. 277 Caring for Camp Lejeune Veterans Act of 2011

S. 277 would amend title 38 to extend special eligibility for hospital care, medical services and nursing home care for certain Veterans stationed at Camp Lejeune during a period in which well water was contaminated notwithstanding that there is insufficient scientific evidence to conclude that a particular illness is attributable to such contamination. It would also make family members of those Veterans who resided at Camp Lejeune eligible for the same services, but only for those conditions or disabilities

associated with exposure to the contaminants in the water at Camp Lejeune, as determined by the Secretary.

VA takes the Camp Lejeune matter very seriously but has a variety of significant concerns with this bill. For example, although we believe that the intent of S. 277 is to provide these Veterans with the same enrollment and treatment authority as for Persian Gulf and post-Persian Gulf Veterans, the bill does not do so because it fails to amend section 1710(e)(2) to address the new special eligibility provision. As the legislation is written, VA would be required to provide treatment for any condition that cannot be specifically eliminated as related to the contaminated water at Camp Lejeune. This bill would not make the special eligibility of these Veterans subject to the limitation that care may not be provided "with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a

cause other than the service or testing described in such subparagraph." As a result, this bill grants these Veterans a broader special eligibility than that conferred on Persian Gulf and post-Persian Gulf Veterans.

The Agency for Toxic Substances and Disease Registry (ATSDR) is conducting ongoing research related to the potential exposures at Camp Lejeune. Current ATSDR research is concentrating on refining hydrological modeling to determine the extent of benzene contamination. This information will then be used along with results from ongoing population studies to determine if the potentially exposed population at Camp Lejeune has experienced an increase in adverse health effects such as birth defects, cancers, and mortality. VA will closely monitor this research and will quickly consider the findings and take appropriate action. In addition, VA will support these studies by acting on ATSDR requests to confirm specific Veteran's health issues. VA has a close working relationship with ATSDR which allows the Department to stay informed about current research.

We are also greatly concerned that the Department of Defense (DoD), and consequently VA, is unable to accurately identify those that may have visited for short periods of time at Camp Lejeune and surrounding areas during the period of potential exposure. While the legislation provides that the Secretary in conjunction with ATSDR shall determine the applicable period, discussion usually centers on the period of 1957– 1987. DoD records have proven problematic in identifying all potential beneficiaries, especially since the legislation does not provide for any limitations as to how long an individual had to be on base at Camp Lejeune. It is possible through the Defense Manpower Data Center to identify Veterans assigned to Camp Lejeune. However, it is impossible to identify those Veterans who visited Camp Lejeune for temporary duty and many of the family members who resided at or visited the base. We note that VA treatment of family members as prescribed by S. 277 would be an unprecedented extension of VA's provision of care to non-veterans.

Veterans who are part of this cohort may apply to enroll in VA health care if they are otherwise eligible, and are encouraged to discuss any specific concerns they have about this issue with their health care provider. VA environmental health clinicians can provide these Veterans with information regarding the potential health effects of exposure to volatile organic compounds and VA's War-Related Illness and Injury Study Centers are also available as a resource to providers. Veterans are also encouraged to file a claim for VA disability compensation for any injury or illness they believe is related to their military service. Currently, Camp Lejeune disability claims are handled on a case by case basis and significant weight is given to the opinions provided by qualified medical examiners who are aware of the contaminants and their potential long-term health effects. In an effort to provide fair and consistent decisions based on service at Camp Lejeune during the period of water contamination, VA has consolidated claims processing at the Louisville Regional Office.

Because of these concerns and others about the adequacy of the underlying scientific evidence, VA does not support this bill.

It is unclear exactly how many people were potentially affected by the water contamination at Camp Lejeune, but some estimates place the number at one million Veterans and family members. VA estimates that the costs associated with this bill are $292 million in fiscal year

2012, $1.6 billion over five years, and $3.9 billion over ten years. In addition, the Department anticipates that this legislation would result in lost revenue associated with collections. VA estimates this loss of revenue to be $19.5 million in fiscal year 2012, $110 million over five years, and $213 million over ten years.

S. 396 Meeting the Inpatient Health Care Needs of Far South Texas Veterans Act of 2011

S. 396 would require the Secretary of VA to ensure that the South Texas Veterans Affairs Health Care Center in Harlingen, Texas, includes a full-service VA inpatient health care facility. If necessary, the Secretary would be required to modify the existing facility to meet this requirement. A report would also be required to be submitted, within 180 days of enactment, outlining the specific actions the Secretary plans to take to satisfy the requirements of the bill, including a detailed cost estimate and a timeline for completion of any necessary modification.

The Department has strong concerns about this bill. VA recognized the need for enhanced access to care in the Lower Rio Grande Valley and Coastal Bend areas of South Texas several years ago. In 2006 and 2007, VA contracted Booz-Allen-Hamilton (BAH) to study options for expanding access to ambulatory specialty and inpatient services in the region. VA implemented their recommended option by converting the clinic at Harlingen into a Health Care Center (HCC) to provide a broad array of specialty services, and to contract with local hospitals in the area to provide inpatient hospital and emergency care. BAH concluded that this option solved secondary care access gaps in the Valley in a way that was cost-effective and consistent with high quality patient care.

Actuarial projections from the 2007 BAH study were a key factor in the Department's decision to expand the clinic at Harlingen into a Health Care Center, and to contract for inpatient care and emergency room services in the local community. In May 2010, in an effort to determine whether this course of action continued to be the best way to serve Veterans, VA reassessed the recommendations made in the BAH study. This reassessment included examination of the most current projections for inpatient utilization, as well as a review of enrollment and actual utilization data for inpatient contracts over the last 12 months. Following a comprehensive review of all available data, we determined the best way to serve inpatient needs for Veterans in the area was to continue using contract care at local hospitals. This course of action will provide Veterans access to a broad array of high quality inpatient services that would not be feasible in a smaller, VA-run facility. In recognition of the significance of the growing Veteran population in this area, we will continue to closely monitor and compare the actual demand for inpatient and emergency room care at the contract hospital systems with the demand identified in the actuarial projections from the BAH study. Should evidence indicate a change in course is required, the Department will consider all viable options.

VA is unable to estimate a cost for compliance with the requirements of this bill at this time but will provide that information in writing for the record. Expansion of the existing facility or construction of a new facility would be necessary for VA to provide inpatient care directly. If the bill is enacted, VA would comply with section 3(b) which requires VA to report to Congress within 180 days on the actions the Secretary plans to take and the estimated cost of such actions.

S. 423 Providing Authority for a Retroactive Effective Date for Awards of Disability Compensation in Connection with Applications that are Fully-developed at Submittal

S. 423 would amend 38 U.S.C. § 5110(b) to authorize a potentially retroactive award of disability compensation to a Veteran whose compensation application was fully developed as of the date submitted to VA. The effective date of a compensation award based on the submittal of a fully developed application would be "fixed in accordance with the facts found," but could not be earlier than the date one year before the date the application was received by VA. The bill would allow VA to prescribe what constitutes a fully-developed claim for purposes of this provision.

VA does not support this bill because it would result in the inequitable treatment of Veterans who cannot submit a "fully-developed" claim. Currently, section 5110 authorizes a retroactive compensation award in two instances, both based on the timing of the application. VA may award compensation retroactively if VA receives the application within one year from the date of a Veteran's discharge or release from service or, in cases of increased compensation, if VA receives the application within one year of the date that an increase in disability is ascertainable. In either case, the timing of the application, and hence the eligibility for a retroactive award, is within a Veteran's control. The retroactive award S. 423 would authorize, however, is based not on the timing of the application, but rather on the nature of the claim and the evidence needed to decide the claim, matters that are not within a Veteran's control. S. 423 would essentially penalize Veterans who cannot submit an application with the evidence necessary to decide the claim. The bill would result in retroactive compensation awards to Veterans whose claims involve simple factual issues or evidence within their possession or readily obtainable, but not to Veterans whose claims involve complex factual issues or evidentiary development, but are no less meritorious than the simple claims.

In addition, S. 423 would likely result in litigation over whether a claim was fully developed when submitted because VA's decision to obtain or request further evidence would preclude a retroactive award.

Although VA does not support S. 423, it appreciates the attempt to create an incentive for Veterans to file fully developed claims. VA believes a more balanced approach would create that incentive. VA has implemented a Fully Developed Claim (FDC) Program at all regional offices as a result of the Veterans' Benefits Improvement Act of 2008, Public Law 110-389, signed by the President on October 10, 2008. This law required VA to assess the feasibility and advisability of expeditiously adjudicating fully developed compensation or pension claims. Under the FDC program, a Veteran who submits a formal claim for benefits within one year from the date of VA's acknowledgement of receipt of the Veteran's informal claim may be awarded benefits effective from the date VA received the informal claim. Because the acknowledgement letter will include information about the evidence necessary to substantiate a claim for benefits, Veterans will be able to facilitate the processing of their claim by submitting evidence in conjunction with their formal claim. Thus, the timing of the application, not whether a fully developed claim is received, is determinative of whether retroactive benefits can be awarded. Further, this extra time allows any claimant the opportunity to assemble his or her claim package for submission, while still affording them the benefit of the FDC program and the potential of an earlier effective date.

VA estimates that enactment would result in benefit costs of $54.9 million for fiscal year 2012, $315.7 million over five years, and $761.7 million over ten years.

S. 486 Protecting Servicemembers from Mortgage Abuses Act of 2011

S. 486 would extend the Servicemembers Civil Relief Act (SCRA) period of protections relating to real and personal property from 9 months to 24 months. This bill would also change violations of SCRA from a misdemeanor to a felony and increase civilian penalty amounts.

VA defers to the Departments of Defense and Justice regarding the merits of this bill. We are unable at this time to provide cost estimates associated with enactment of this bill, but will provide that information in writing for the record.

S. 490 Increase the Maximum Age for Children Eligible for CHAMPVA

VA supports S. 490, which would amend 38 U.S.C. § 1781(c) to extend eligibility for coverage of children under the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) until they reach age 26 so that eligibility for coverage of children under CHAMPVA will be consistent with private sector coverage under the Affordable Care Act . S. 490 would extend eligibility for coverage of children under CHAMPVA regardless of age, marital status, and school enrollment status up to the age of 26; and the bill would ensure that CHAMPVA eligibility would not be limited for individuals described in § 101 (4)(A)(ii) (individuals who, before attaining age 18, became permanently incapable of self-support).

The amendments made by S. 490 would apply with respect to medical care provided on or after the date of enactment of the bill. The extension of eligibility to age 26 would not be limited to children who are currently enrolled in or even those who are currently eligible for CHAMPVA. This is because we read this bill to provide that a "child who is eligible for benefits" under § 1781(a) will still be considered an eligible "child" until his or her 26th birthday, notwithstanding the age limits in 38 U.S.C. § 101(4). We offer for the Committee's information that S. 490 would not extend eligibility for children who, before January 1, 2014, are eligible to enroll in an eligible employer-sponsored health plan (as defined in I.R.C. § 5000A(f)(2)). This means that the age, school status, and marital status requirements in 38 U.S.C. § 101(4) will, before 2014, apply to children who are eligible to enroll in an eligible employer-sponsored health plan and would not extend eligibility for coverage of those individuals. This provision in the bill is thus in accordance with the discretion provided to grandfathered health plans that are group health plans in the private sector under the Affordable Care Act.

VA estimates the cost of implementing S. 490 to be $64.6 million in fiscal year 2012, $390.5 million over five years, and $1 .022 billion over ten years.

S. 536 Provide that Utilization of Survivors' and Dependents' EducationalAssistance shall not be Subject to the 48-month Limitation

S. 536 would amend section 3695(a)(4) of title 38, United States Code, to exempt individuals eligible for VA education benefits under the chapter 35 Survivors' and Dependents' Educational Assistance (DEA) program from the 48-month limitation on the

use of educational assistance under multiple Veterans' and related educational assistance programs. This amendment would allow an individual to receive up to 45 months of benefits under the DEA program and up to 48 months of benefits under other educational assistance programs administered by VA. The amendment would take effect on the date of enactment of S. 536. By its own terms, however, it would not revive any entitlement to educational assistance under chapter 35 or any other provision of law listed in section 3695(a) that terminated prior to that date.

Under current law, section 3695(a) limits to 48 months the aggregate entitlement for any individual who receives educational assistance under two or more programs. This provision applies, in part, to the Montgomery GI Bill Active Duty (MGIB-AD/chapter 30), the Vietnam Era Assistance Program (VEAP/chapter 32), the Post-9/11 GI Bill (chapter 33), the Survivors' and Dependents' Educational Assistance program (chapter 35), the Montgomery GI Bill Selected Reserve (MGIB-SR/chapter 1606), and the Reserve Educational Assistance Program (REAP/ chapter 1607).

Beginning on the date of enactment of this bill, as noted above, VA would not consider an individual's chapter 35 entitlement when applying the 48-month limitation in section 3695(a). The amendment also would be applicable to those individuals who, as of the day before enactment, had not used a total of 48 months of benefits entitlement (regardless of whether the 48 months included receipt of chapter 35 benefits). Thus, those individuals with remaining entitlements under other educational assistance programs administered by VA on the bill's date of enactment would have their entitlement to such programs determined without consideration of the benefits they used under chapter 35.

VA does not have the specific data necessary to cost this proposal. While VA can determine the number of participants who used prior VA training and the amount of entitlement used in previous programs, we cannot extract the specific Survivors' and Dependents' Educational Assistance program population affected by this proposal. The system used to process chapter 35 claims stores and retrieves information for beneficiaries using the Veteran's file number. Although information specific to the individual is stored in the record, the system uses the file number to search for multiple records. As a result, a query of the chapter 35 file numbers would provide information on Veterans rather than the beneficiaries of the Survivors' and Dependents Educational Assistance program. Further, VA has no way of determining how many servicemembers elected not to participate in the MGIB-AD program because of prior chapter 35 benefits or how many individuals potentially eligible for the Post-9/11 GI Bill are or were eligible for chapter 35 benefits.

VA supports the intent of S. 536 and favors enactment of the bill, subject to Congress finding offsetting savings. While we are unable to extract a specific population and are unable to provide costs, we estimate that a student who used 45 months of benefits under the Survivors' and Dependents' Educational Assistance program would receive an additional $51,336 for a full 36 months of training under the Montgomery GI Bill – Active Duty program. Similarly, we estimate that a student in receipt of benefits at the 100 percent eligibility tier under the Post-9/11 GI Bill program would receive an additional $87,544 for 36 months of benefits.

S. 572 Repeal of the prohibition on collective bargaining with respect to matters and questions regarding compensation of employees of the Department of Veterans Affairs other than rates of basic pay

S. 572 would amend 38 U.S.C. 7422 by replacing the word "compensation" in sections (b) and (d) with the words "rates of basic pay." While we appreciate the many contributions collective bargaining and the labor-management partnership make to VA's mission, we strongly oppose S. 572.

VA would like to stress to the Committee that we deeply value the contributions of our employees, and work to enjoy a collaborative, positive working relationship with unions across the country. We hold retention of employees as a critically important goal, and encourage the management teams of VA facilities to offer professional development opportunities and encourage personal growth.

This bill would repeal the prohibition on collective bargaining with respect to compensation of title 38 employees. Currently, 38 U.S.C. 7422(b) and (d) exempt "any matter or question concerning or arising out of . . . the establishment, determination, and adjustment of [title 38] employee compensation" from collective bargaining. This bill would replace the word "compensation" with the phrase "rates of basic pay." This change would apparently make subject to collective bargaining all matters relating to the compensation of title 38 employees (physicians, dentists, nurses, et al.) over which the Secretary has been granted any discretion.

In order to provide the flexibility necessary to administer the title 38 system, Congress granted the Secretary significant discretion in determining the compensation of VA's health care professionals. When Congress first authorized title 38 employees to engage in collective bargaining with respect to conditions of employment, it expressly exempted bargaining over "compensation" in recognition of the U.S. Supreme Court's ruling in Ft. Stewart Schools v. FLRA, 495 U.S. 641 (1990). In that case the Court held that the term "conditions of employment," as used in the Federal Service Labor- Management Relations Statute (5 U.S.C. 7101), included salary, to the extent that the agency has discretion in establishing, implementing, or adjusting employee compensation. Id. at 646-47. Thus, Congress sought to make clear in 38 U.S.C. 7422(b) that title 38 employees' right to bargain with respect to "conditions of employment" did not include the right to bargain over compensation. Over the years, Congress has authorized VA to exercise considerable discretion and flexibility with respect to title 38 compensation to enable VA to recruit and retain the highest quality health care providers.

The term "rates of basic pay" is not defined in title 38. However, the Department has defined "basic pay" as the "rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind." VA Handbook 5007, Part IX, par. 5. Such additional pay includes market pay, performance pay, and any other recruitment or retention incentives. Id. Accordingly, S. 572 would subject many discretionary aspects of title 38 compensation to collective bargaining. For example, there are two discretionary components of compensation for VA physicians and dentists under the title 38 pay system—market pay and performance pay. Market pay, when combined with basic pay, is meant to reflect the recruitment and retention needs for the specialty or assignment of the particular

physician or dentist in a VA facility. Basic pay for physicians and dentists is set by law and would remain non-negotiable under this bill, but the Secretary has discretion to set market pay on a case-by-case basis. Market pay is determined through a peer-review process based on factors such as experience, qualifications, complexity of the position, and difficulty recruiting for the position. In many cases, market pay exceeds basic pay. In those situations, this bill would render a large portion or even the majority of most physicians' pay subject to collective bargaining. The Secretary also has discretion over the amount of performance pay, which is a statutorily authorized element of annual pay paid to physicians and dentists for meeting goals and performance objectives. Under this bill, performance pay would also be negotiable. Likewise, pay for nurses entails discretion because it is set by locality-pay surveys. Further, Congress has granted VA other pay flexibilities involving discretion, including premium pay, on-call pay, alternate work schedules, Baylor Plan, special salary rates, and recruitment and retention bonuses. The ability to exercise these pay flexibilities is a vital recruitment and retention tool. It is necessary to allow VA to efficiently compete on a cost-effective basis with the private sector and to attract and retain clinical staff who deliver health care to Veterans. As described below, this flexibility would be greatly hindered by the collective bargaining ramifications of S. 572.

This bill would obligate VA to negotiate with unions over all discretionary matters relating to compensation, and to permit employees to file grievances and receive relief from arbitrators when they are unsatisfied with VA decisions about discretionary pay. If VA were obligated to negotiate over such matters, it could be barred from implementing decisions about discretionary pay until it either reaches agreements with its unions or until it receives a binding decision from the Federal Service Impasses Panel. Stated differently, VA could be prevented from hiring clinical staff and have decisions regarding appropriate clinical staff subject to third party delay and retroactive change. This could significantly hinder our ability and flexibility to hire clinical staff as needed to timely meet patient-care needs.

Moreover, any time an employee was unsatisfied with VA's determination of his or her discretionary pay, the union could grieve and ultimately take the matter to binding arbitration. This would allow an arbitrator to substitute his or her judgment for that of VA and, with regard to physician market pay, to override peer review recommendations. This bill would allow independent third-party arbitrators and other non-VA, non-clinical labor third parties who lack clinical training and expertise to make compensation determinations. VA would have limited, if any, recourse to appeal such decisions.

Importantly, S. 572 would result in unprecedented changes in how the Federal Government operates. It would permit unions to bargain over, grieve, and arbitrate a subject—employee compensation—that is generally exempted from collective bargaining even under title 5. Although Congress has built much more Agency discretion into the title 38 compensation system both to achieve the desired flexibility and because the system is unique to VA, permitting title 38 employees to negotiate the discretionary aspects of their compensation would be at odds with how other Federal employees are generally treated. Further, collective bargaining over discretionary aspects of pay is unnecessary. VA's retention rates for physicians and dentists are comparable to private sector retention rates, while retention rates for VA registered nurses significantly exceed those of the private sector, strongly suggesting that the lack of bargaining

ability over discretionary aspects of pay has not negatively affected VA's ability to retain title 38 employees.

To address some of the concerns expressed by the unions, the Secretary convened a group of union and management officials to formulate recommendations to jointly explore and clarify the implementation of the title 38 exclusions under section 7422.

This workgroup was a significant cooperative effort, spanning multiple meetings, in person and via conference calls, from July 2009 through May 2010. The 7422 workgroup membership included field clinicians, the Office of General Counsel, the Office of Labor Management Relations, and the five national unions (American Federation of Government Employees (AFGE); National Association of Government Employees (NAGE); Service Employees International Union (SEIU); United American Nurses (UAN) (now National Nurses United (NNU)); and, National Federation of Federal Employees (NFFE). Assistant Secretary for HR&A, John Sepúlveda, participated in all face to face meetings of the workgroup.

The final result of the workgroup was sixteen individual recommendations, as well as concise position papers of the parties and joint supporting documents. Included in the recommendations approved by the Secretary in December 2010 was language to address union concerns with the way section 7422, including the compensation exclusion is implemented. Also in December 2010, Memorandum of Understanding (MOU) with the approved recommendations was signed by the Deputy Secretary,
W. Scott Gould; the Under Secretary for Health, Robert A. Petzel, MD; the Assistant Secretary for HR&A, John U. Sepúlveda; and the leaders of four of the five national unions. The Secretary has charged an implementation team to work on further development of an action plan to implement the 7422 working group's approved recommendations. A meeting is scheduled for July 6 -7, 2011, in Washington, D.C. Additional meetings will be scheduled to complete the implementation process. The MOU as well as our actions to implement it show our commitment to collaborate with the unions and make the passage of S. 572 unnecessary.

We are not able to estimate the cost of S. 572 for two reasons. First, if VA is required to negotiate over compensation matters, and if the Agency is unable to reach agreements with the unions, the final decisions on pay will ultimately rest with the Federal Service Impasses Panel. The Panel has discretion to order VA to comply with the unions' proposals. Second, if pay issues become grievable and arbitrable, the final decisions on pay will rest in the hands of arbitrators.

On the whole, our efforts to recruit and retain health care professionals have been widely successful, and have not in any way been impaired by the exclusion of matters concerning or arising out of compensation from collective bargaining. We would be glad to share applicable data with the Committee and brief the members on our continuing efforts in this area.

S. 666 "Veterans Traumatic Brain Injury Care Improvement Act of 2011"

S. 666, the "Veterans Traumatic Brain Injury Care Improvement Act of 2011," would require the Secretary to submit to Congress a report on the feasibility and advisability of establishing a Polytrauma Rehabilitation Center or Polytrauma Network Site for VA in the northern Rockies or the Dakotas.

VA shares the concern for providing treatment facilities for polytrauma in this region. Consequently, in 2010, VA completed an assessment of need and determined that an enhanced Polytrauma Support Clinic Team with a strong telehealth component at the Ft. Harrison, Montana, VA facility would meet the needs and the workload volume of Veterans with mild to moderate traumatic brain injury (TBI) residing in the catchment area of the Montana Healthcare System. It would also facilitate access to TBI rehabilitation care for other Veterans from the northern Rockies and the Dakotas through telehealth. VA has initiated hiring actions to fill additional positions needed to enhance the Polytrauma Support Clinic Team at Fort Harrison. We anticipate these positions will be in place by the end of 2011. However, establishment of a Polytrauma Rehabilitation Center or Polytrauma Network Site, which would focus on the treatment of moderate to severe TBI, is not feasible or advisable in this area based on the needs of the population served. Because of the action already being taken by VA, this bill is not necessary, and we thus cannot support it.

The estimated cost of staffing the Polytrauma Support Clinic Team at Ft. Harrison would be $1.5 million in the first year, $6.2 million for five years, and $13.0 million over ten years. We do not have estimated costs for implementing the bill but will provide them when they are available.

Mr. Chairman, we would be pleased to provide the Committee with more detailed information about our findings and decisions regarding the northern Rockies and the Dakotas.

S. 696 Treatment of Vet Centers as Department of Veterans Affairs facilities for purposes of payments or allowances for beneficiary travel to Department facilities

S. 696 would require VA to make beneficiary travel payments to persons traveling to and from Vet Centers if those persons would otherwise be eligible for these payments under VA's authority to pay beneficiary travel. VA is very interested in the possibility of expanding this benefit to include travel to and from Vet Centers, but recommends that no action be taken on this bill at this time. In an effort to better assess the various factors potentially affecting implementation of such a travel benefit, VA began a 6-month analysis on May 1, 2011 at three Vet Centers to identify a model process for administering benefits. The analysis will: assess the likely utilization of the benefit; identify issues associated with administering this benefit; determine the potential impact this benefit would have on the Vet Center culture and Veterans' privacy concerns; develop a model that can determine the upper and lower bounds for demand for this benefit; and create a behavioral model that can estimate potential changes in Veteran utilization of Vet Center services.

This analysis will include focus groups of Veterans utilizing Vet Center services to assess various cultural variables, such as the effect this benefit might have on the Vet Center environment and services, as well as Veteran support for the implementation of this program. VA will also survey Veterans receiving Vet Center services to identify their interest, the average distance they travel to a Vet Center, and the number of visits they typically make each month. VA will also review data from the existing beneficiary travel program to estimate economic and behavioral impacts on utilization rates. VA believes this to be a prudent approach that will allow us to determine the likely impacts of such a change, prepare for any changes in demand for Vet Center services, and include a budget request sufficient to support these benefits or any other changes resulting from

enactment. VA will provide an update to Congress at the end of this analysis with its results, conclusions and recommendations.

Given available data, VA estimates the cost of S. 696 in fiscal year 2012 to be $3.7 million, $23.3 million over five years, and $63.2 million over ten years. VA notes these estimates may change based on the results of the aforementioned analysis, and VA will provide an updated cost estimate to the Committee when we have completed this analysis.

S. 698 Codifying the Prohibition against the Reservation of Gravesites at Arlington National Cemetery

S. 698 would limit to one the number of gravesites at Arlington National Cemetery that may be provided to a Veteran or a Member of the Armed Forces who is eligible for interment at that cemetery and the Veteran's or Member's family members who are eligible for interment there. The bill would also prohibit pre-need reservations of gravesites at Arlington National Cemetery and would require the Secretary of the Army to submit to Congress a report on reservations made at Arlington National Cemetery.

VA defers to DoD regarding S. 698 because the Secretary of the Army is responsible for the management and operation of Arlington National Cemetery.

S. 745 Protect Certain Veterans Who would Otherwise be Subject to a Reduction in Education Benefits

S. 745 would protect certain Veterans who were enrolled in VA's Post-9/11 Veterans Educational Assistance Program (generally referred to as the "Post-9/11 GI Bill) as it existed before the enactment of Public Law 111- 377, the "Post-9/11 Veterans Educational Assistance Improvements Act of 2010," who otherwise would be subject to a reduction in educational assistance benefits.

Prior to the passage of Public Law 111-377 on January 4, 2011, individuals using benefits under the Post-9/11 GI Bill at a private institution of higher learning were paid the lesser amount of the established charges (the actual charges for tuition and fees which similarly-circumstanced nonveterans enrolled in the program of education would be required to pay) or the established in-state maximum tuition-and-fee rate at a public institution within that state. With the enactment of Public Law 111-377, individuals pursuing a program of education at a private institution of higher learning for the academic year beginning on August 1, 2011, would be limited to the actual net cost for tuition and fees assessed by the institution, not to exceed $17,500.

S. 745 would modify the amount of educational assistance payable to specific beneficiaries to make an exception for those who are enrolled in a private institution of higher learning in certain states. This exception would apply to an individual entitled to educational assistance under the Post-9/11 GI Bill, who, on or before January 4, 2011, was enrolled in a private institution of higher learning in a state in which the maximum amount of tuition per credit hour in the 2010-2011 academic year exceeded $700. There are seven states that meet this criterion: Arizona, Michigan, New Hampshire, New York, Pennsylvania, South Carolina, and Texas. Beginning on August 1, 2011, and ending on December 31, 2014, the amount payable under this

proposed legislation would be the lesser of (1) the established charges for the program of education; or (2) for the academic year beginning on August 1, 2011, an amount equal to the established charges payable based on the Department of Veterans Affairs Post-9/11 GI Bill 20 10- 2011 Tuition and Fee In-State Maximums published October 27, 2010; or (3) for the academic year beginning on August 1, 2012, and any subsequent academic year, an amount equal to the amount for the previous academic year beginning on August 1, as increased based on the average cost of undergraduate tuition as determined by the National Center for Education Statistics.

This legislation would have significant PAYGO costs requiring offsets. In addition, VA has concerns with the proposed legislation as written, including, in particular, the timeline for implementing it, as described in detail below.

VA is working aggressively on its Long-Term Solution (LTS) for processing Post-9/11 GI Bill claims. As of January 2011, VA and the Space and Naval Warfare Systems Center Atlanta (SPAWAR) have developed four releases for the LTS system. The enactment of Public Law 111-377, which modifies aspects of the Post-9/11 GI Bill, has already impacted VA's ability to deploy previously-planned functionality enhancing the capability of the LTS. VA plans to implement changes to the Post-9/11 GI Bill mandated by Public Law 111-377 across three releases of the LTS. The first release was deployed on March 5, 2011; future releases are scheduled for deployment on June 6, 2011, and October 17, 2011. The enactment of S. 745 would further hamper VA's LTS¬deployment efforts.

If it were enacted before completion of the aforementioned releases, the proposed legislation would also have a negative impact on service delivery for those students using benefits this fall. VA claims processors would have to thoroughly examine each claim manually to determine if it meets the new requirements of these provisions, which would result in labor-intensive manual processing. This would lead to a significant increase in the average number of days to process all education claims.

VA has identified several other technical concerns with regard to the bill text. For example, it is unclear if an individual must be enrolled in the same school and program on or before January 4, 2011, to be covered under this legislation. It is also unclear how the legislation would apply to an individual who changes programs or schools. We would be pleased to assist the Committee in addressing these concerns.

While the amendments made by this legislation would take effect on August 1, 2011, VA strongly recommends that language be added to allow VA to begin making payments in accordance with these provisions no later than August 1, 2012, to allow for necessary system changes and reduce the impact on existing beneficiaries.

VA estimates that, if S. 745 is enacted, the cost to the Readjustment Benefits account would be $13.9 million in fiscal year 2011 and a total of $57.8 million over the four years fiscal year 2011 through fiscal year 2014.

S. 769 Veterans Equal Treatment for Service Dogs Act of 2011

S. 769 would prohibit the Secretary from excluding from any VA facilities or property or any facilities or property that receive funding from VA, service dogs trained for use by Veterans enrolled in the VA health care system who were provided service dogs for reasons of hearing impairment, spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility, and mental illness including post-traumatic stress disorder.

VA acknowledges that trained service dogs can have a significant role in maintaining functionality and promoting maximum independence of Veterans with disabilities. VA recognizes the need for Veterans with disabilities to be accompanied by their trained service dog on VA properties consistent with the same terms and conditions, and subject to the same regulations as generally govern the admission of members of the public to the property. However, S. 769 is unnecessary. Under existing statutory authority in 38 U.S.C. 901, VA can implement national policy for all VA properties, and in fact did so for VHA facilities and property on March 10, 2011 (VHA Directive 2011- 013), directing that both Veterans and members of the public with disabilities who require the assistance of a trained guide dog or trained service dog be authorized to enter VHA facilities and property accompanied by their trained guide dog or trained service dog consistent with the same terms and conditions, and subject to the same regulations that govern the admission of members of the public to the property. We would be glad to provide a copy of the Directive for the record. This Directive requires each Veterans Integrated Service Network (VISN) Director to ensure all VHA facilities

have a written policy on access for guide and service dogs meeting the requirements of the national policy by June 30, 2011. In addition, VA intends to initiate rulemaking that will establish criteria for service dog access to all VA facilities and property in a manner consistent with the same terms and conditions, and subject to the same regulations as generally govern the admission of members of the public to the property while maintaining a safe environment for patients, employees, visitors, and the service dog.

We note that VA's new Directive is much broader in scope than S. 769 which would only apply to certain Veterans and not members of the public. In particular, it would only apply to that subset of Veterans who are enrolled in VA's health care system and who were provided service dogs for reasons of hearing impairment, spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility, and mental illness including post-traumatic stress disorder pursuant to 38 U.S.C. 1714. VA's policy allows not only all Veterans with a disability that requires the assistance of a trained guide dog or trained service dog, but also members of the public including Veterans' families and friends with disabilities, to be accompanied by their trained guide dogs or trained service dogs in VHA facilities or properties.

The bill also prohibits the Secretary from excluding service dogs from any facility or on any property that receives funding from the Secretary. Such a prohibition is unnecessary because it duplicates other statutes discussed below.

Any non-VA facilities and properties with which S. 769 is concerned that are also owned or controlled by the Federal government must under current law at 40 U.S.C. § 3103, admit on the same terms and conditions, and subject to the same regulations, as generally govern the admission of the public to the property, specially trained and educated guide dogs or other

service animals accompanying individuals with disabilities. Other non-VA properties not otherwise owned or controlled by the Federal government, including but not limited to professional offices of health care providers, hospitals, and other service establishments, will almost certainly meet the definition of a place of public accommodation or public entity under the Americans with Disabilities Act of 1990 as prescribed in regulations at 28 C.F.R. §§ 35.104 and 36.104, and therefore be required to modify their policies, practices, or procedures to permit the use of a service animal by an individual with a disability in accordance with 28 C.F.R. §§ 35.136 and 36.302. We would note that VA facilities are not subject to the Americans with Disabilities Act of 1990, but are subject to the Rehabilitation Act. The Rehabilitation Act does not specifically address the issue of service dogs in buildings or on property owned or controlled by the Federal government, but does prohibit discrimination against individuals with disabilities, including those who use service animals, in federally- funded or -conducted programs and activities. In addition, as explained above, there are other existing authorities that address the issue of bringing guide dogs and other service animals onto VA property.

VA estimates that there would be no costs associated with implementing this bill.

S. 780 Exempting Reimbursements of Expenses Related to Accident, Theft, Loss, or Casualty Loss from Determinations of Annual Income with Respect to Pensions for Veterans and Surviving Spouses and Children of Veterans

S. 780, the "Veterans Pensions Protection Act of 2011," would liberalize the existing exemption in 38 U.S.C. § 1 503(a)(5) by excluding from determinations of annual income, for purposes of determining eligibility for improved pension, two types of payments: (1) payments regarding reimbursements for expenses related to accident, theft, loss, or casualty loss and reimbursements for medical expenses resulting from such causes; and (2) payments regarding pain and suffering related to such causes.

The exemption for payments received to reimburse Veterans for medical costs and payments regarding pain and suffering is an expansion of the current exclusions. VA opposes excluding from countable income payments received for pain and suffering because such payments do not constitute a reimbursement for expenses related to daily living. This provision of the bill would be inconsistent with a needs-based program.

Payments for pain and suffering are properly considered as available income for purposes of the financial means test for entitlement to improved pension.

VA does not oppose the remaining provisions of this bill, which would exempt payments for reimbursement for accident, theft, loss, casualty loss, and resulting medical expenses, subject to Congress identifying offsets for any additional costs. Current law exempts from income determinations reimbursements for any kind of "casualty loss," which is defined in VA regulation as "the complete or partial destruction of property resulting from an identifiable event of a sudden, unexpected or unusual nature." S. 780 would broaden the scope of this exemption by including reimbursements for expenses resulting from accident, theft, and ordinary loss.

VA cannot determine the potential benefit costs related to the exemption for payments for pain and suffering related to accident, theft, loss, or casualty loss because insufficient data are

available regarding the frequency or amounts of such payments to the population of pension beneficiaries.

S. 815 Sanctity of Eternal Rest for Veterans Act of 2011 or the SERVE Act of 2011

S. 815, the "Sanctity of Eternal Rest for Veterans Act of 2011" or the "SERVE Act of 2011," would amend titles 18 and 38, United States Code, to guarantee that military funerals are conducted with dignity and respect. Section 2 of the bill would state the purpose of the bill, to provide necessary and proper support for the recruitment and retention of the U.S. Armed Forces and militia employed in the service of the United States by protecting the dignity of their members' service and the privacy of persons attending their members' funerals. It would also state Congress' findings regarding the constitutional authority for the bill. Section 3 of the bill would amend title 18, United States Code, making it unlawful to engage in certain activities within a certain distance from, and during a certain period in relation to, any funeral of a member or former member of the Armed Forces not located at a cemetery under the control of the National Cemetery Administration (NCA) or a part of Arlington National Cemetery. It would provide for punishment by fine or imprisonment or both, give U.S. district courts jurisdiction to entertain suits for enjoining violations of the provision and complaints for damages resulting from conduct that violates the provision, authorize the Attorney General to institute proceedings, and authorize suits to recover damages. Although this section of the bill is inapplicable to NCA cemeteries, VA supports its enactment because it would establish a unified approach to preserve the dignity of funeral services and reinforces the commitment to protect the privacy of attendees during their time of bereavement.

Section 4 of the bill would make several changes to 38 U.S.C. § 2413 to make it align with the title 18 provisions applicable to non-NCA cemeteries. Section 2413 currently prohibits certain demonstrations: (1) on the property of an NCA-controlled national cemetery or of Arlington National Cemetery without official approval; and (2) during a period beginning one hour before and ending one hour after a funeral, memorial service, or ceremony is held if any part of the demonstration takes place within a certain distance of such a cemetery, disturbs the peace, or impedes access to or egress from such a cemetery. The effect of the amendment is to expand the time period during which demonstrations are prohibited to begin two hours before and end two hours after a funeral, and increase the distance restriction for demonstrations from 150 feet to 300 feet of the cemetery or a road, pathway, or other route of ingress or egress from the cemetery. It would increase protections against willful conduct which causes or assists in making noise or diversion that disturbs the funeral or memorial service, or unauthorized conduct that impedes the access to or egress from the cemetery by the funeral procession by increasing the boundary limits for engaging in such prohibited conduct from 300 feet to within 500 feet of the cemetery where the funeral is held. The bill provides for punishment by fine or imprisonment or both, gives U.S. district courts jurisdiction to entertain suits for enjoining violations of the provision and complaints for damages resulting from conduct that violates the provision, authorizes the Attorney General to institute proceedings, and authorizes suits to recover damages. The bill also contains a clerical amendment to revise the heading for section 2413.

VA supports section 4 of this bill to ensure the privacy and protection of grieving families during funeral, memorial and ceremonial services meant to honor these fallen heroes who, through their

service, paid the ultimate price. If enacted, S. 815 would have no monetary impact on NCA's current practice of coordinating with local law enforcement and community supporters.

S. 894 Veterans' Compensation Cost-of-Living Adjustment Act of 2011

S. 894, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2011," would mandate a cost-of-living adjustment (COLA) in the rates of disability compensation and dependency indemnity compensation payable for periods beginning on or after December 1, 2011. The COLA would be the same as the COLA that will be provided under current law to Social Security benefit recipients, which is currently estimated to be an increase of 0.9 percent. This increase is identical to that proposed in the President's fiscal year 2012 budget request to protect the affected benefits from the eroding effects of inflation. VA supports the bill and believes that our Veterans and their dependents deserve no less. VA estimates that enactment would result in benefit costs of $329 million for fiscal year 2012, $2.1 billion over five years, and $4.6 billion over ten years. However, because COLA costs are assumed in the baseline for Compensation and Pensions each year, enactment of this bill does not result in PAYGO costs.

S. 910 Veterans Health Equity Act of 2011

S. 910 would amend Title 38, Part II, Chapter 17, of the United States Code to include new section 1 706A. Section 1 706A would require the Secretary to ensure that Veterans in each of the 48 contiguous States have access to at least one full-service Department medical center or to comparable hospital care and medical services through contract with other in-State health care providers. Section 1 706A would define a full-service Department medical center as a facility that provides medical services including, hospital care, emergency medical services, and standard-level-complexity surgical care.

Additionally, the Secretary would be required to submit a report to Congress within one year describing VA's compliance with these requirements and how the quality and standards of care provided to Veterans has been impacted.

VA opposes this legislation because it is unnecessary. VA engages in an extensive analysis of factors in order to identify appropriate locations to site VA health care facilities. These factors include, but are not limited to, projected total Veteran population, Veteran enrollee population, and utilization trends. VA analyzes this demand projection data over a 20-year period and takes into account Veteran access to various types of care and services. VA also utilizes its access guidelines, which take into account an acceptable amount of time a Veteran should reasonably travel to receive care depending upon whether the Veteran resides in an urban, rural, or highly rural community.

VA engages in population-based planning and seeks to provide services through a continuum of delivery venues, including outreach clinics, community-based outpatient clinics, and medical facilities or hospitals. When it is determined that a full-service hospital is not required, VA uses a combination of interventions to ensure the delivery of high quality health care such as contracting for care in the community, use of telehealth technologies and referral to other VA

facilities. VA improves Veteran access to health care by providing care within or as close to the Veteran's community as possible, regardless of state boundary lines.

To address the needs and concerns of the New Hampshire constituency, VA is providing expanded acute care services to New Hampshire Veterans through contracts with local health care providers. This model has been used for more than a decade to provide VA-coordinated care in a safe and cost effective manner.

Providing services in this manner ensures that Veterans who use the Manchester VAMC have available locally the same level of acute care services as other Veterans within the VA New England Healthcare System and elsewhere. Patients who require tertiary care, such as cardiac surgery or neurosurgery, and extended inpatient psychiatry will continue to be referred to appropriate VA facilities for this care. Current VA workload projection models reflect a 34 percent reduction in Inpatient Bed Services for VA New England Healthcare System by 2021.

We are unable at this time to provide cost estimates associated with enactment of this bill, but will provide that information in writing for the record.

S. 928 Limiting the Authority of the Secretary of Veterans Affairs to Use Bid

Savings on Major Medical Facility Projects of the Department of Veterans Affairs to Expand or Change the Scope of a Major Medical Facility Project of the Department
S. 928 would amend title 38, Section 8104 (d)(2) of the United States Code, to limit the authority of the Secretary of VA to use bid savings on major medical facility projects of the Department, to expand or change the scope of a major medical facility project of the Department, and for other purposes. The Secretary would be required to submit a notice to the committees identifying the major medical facility project that is the source of the bid savings, the major medical facility project to be expanded or changed in scope, describe the expansion or change in scope, and identify the amounts intended to be obligated for the expansion or change in scope. The Secretary would then be required to wait until legislation is enacted before making a contract obligation. However, ample congressional notification requirements for changes or expansions in scope are already in place. VA thus opposes this legislation as unnecessary.

S. 935 Veterans Outreach Enhancement Act of 2011

S. 935, the "Veterans Outreach Enhancement Act of 2011," would require the Secretary to establish a 5-year program of outreach to increase Veterans' access, use, and awareness of, and their eligibility for, Federal, State, and local programs that provide compensation and other benefits for service in the Armed Forces. The bill would authorize VA to enter into agreements with Federal and State agencies to carry out projects under their jurisdictions and to enter into agreements with certain authorities, commissions, and development boards to provide technical assistance, award grants, enter into contracts, or otherwise provide funding for projects and activities that would: (1) increase outreach and awareness of benefit programs; (2) provide incentives to State and local governments and Veterans service organizations to increase Veterans' utilization of available resources; (3) educate communities and State and local governments about Veterans' employment rights; (4) provide technical assistance to Veteran-owned businesses; and (5) promote Veteran-assistance programs by nonprofit organizations,

businesses, and institutions of higher learning. This bill would also require the Secretary to submit to Congress a comprehensive report on its outreach activities and would authorize appropriations for this program of $7 million for fiscal year 2011 and $35 million for fiscal years 2012 through 2016.

VA supports the objective of S. 935, to improve outreach initiatives. However, we believe VA's existing programs and authorities are adequate in this regard.

VA continues to work to improve its outreach services. VA's program offices and administrations are currently engaged in outreach activities similar to those identified in S. 935. Because outreach is a critical component of VA's mission, and in light of its current efforts, VA would like to continue to build upon its current planned strategies and activities to increase and improve its outreach initiatives. VA has created a National Outreach Office (NOO), within the Office of Intergovernmental and Public Affairs
(OPIA), to help standardize how outreach is being conducted throughout VA. These efforts have resulted in considerable progress in obtaining information essential to VA's analysis of its current programs and activities and will enable OPIA and NOO to undertake a more efficient and effective approach to conduct department-wide outreach in support of VA's major initiatives.

Significant efforts are being made to ensure the effective coordination of outreach efforts to Veterans in rural areas. Section 506 of Public Law 111-163, the Caregivers
and Veterans Omnibus Health Services Act of 2010, requires VA to provide outreach to Veterans and their families about the availability of benefits and connect them with appropriate care and benefit programs.

Through the efforts of OPIA, NOO, and various other VA offices and administrations, we believe that VA continues to expand and develop its outreach initiatives to reach out to all Veterans. We do not have a cost estimate for implementing this bill but will provide it when it is available.

S. 951 Hiring Heroes Act of 2011

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

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

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

requirement that Veterans be rehabilitated to the point of employability before VA can make payments to employers for providing on-job training, this section would allow VA to make these payments to employers for providing on-job training to many more Veterans. VA supports this provision. VA estimates benefit costs to be $792 thousand for the first year, $4.2 million for five years, and $9.1 million over ten years.

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

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

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

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

Finally, section 9 of the bill would require VA, DoD, and DOL to select a contractor to conduct a study to identify equivalencies between skills developed by members of the military through

various military occupational specialties (MOS) and the qualifications required for private sector civilian employment positions and report on the results of the study. This section would also require Federal government departments and agencies to cooperate with the contractor. VA, DoD, and DOL would be required to transmit the report with appropriate comments to Congress.

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

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

S. 957 Veterans' Traumatic Brain Injury Rehabilitative Services
Improvements Act of 2011

In 2008, Congress established several programs targeted at the comprehensive rehabilitation of Veterans and members of the Armed Services receiving VA care and services for Traumatic Brain Injuries (TBI). In general, S. 957 seeks to improve those programs (established by 38 U.S.C. §§ 1710C-E) by requiring rehabilitative services, as defined by the bill and discussed below, to be an integral component of those on-going programs. With two exceptions, we have no objection to S. 957.

Currently, the provisions of 38 U.S.C. § 171 0C set forth the requirements for an individualized rehabilitation and reintegration plan that must be developed for each Veteran or member of the Armed Forces receiving VA inpatient or outpatient rehabilitative hospital care or medical services for a TBI. VA Handbook 1172.04, Physical Medicine and Rehabilitation Individualized Rehabilitation and Community Reintegration Care Plan, implements section 171 0C.

Section 2(a) of S. 957 would amend some of the mandated requirements in
section 171 0C. Specifically, it would clarify that the goal of each individualized plan is to maximize the individual's independence and quality of life. It would also require, as part of a plan's stated rehabilitative objectives, the sustaining of improvements made in the areas of physical, cognitive, and vocational functioning. Section 2(a) of the bill would further require that each such plan include rehabilitation objectives for improving and sustaining improvements in the individual's behavioral functioning as well as mental health.

These amendments would not alter VA's policy or operations in any significant way, as VA's primary aim for Veterans with serious or severe injuries has always been, and continues to be, maximizing their independence, health, and quality of life. It is out of these concerns that VA has developed robust rehabilitation therapy programs to help them learn or re-learn skills and develop resources for sustaining gains made in their rehabilitation.

Section 2(a) of the bill would require the individual plans to include access, as warranted, to all appropriate rehabilitative services of the TBI continuum of care. The law now requires these plans to provide access, as warranted, to rehabilitative components of the TBI continuum of care (which includes, as appropriate, access to long-term care services).

Current law also requires that each individualized plan include a description of the specific "rehabilitation treatments and other services" needed to achieve the patient's rehabilitation and reintegration goals. Section 2(a) of the bill would replace all references to "treatments" in the affected provision with "services." This would ostensibly broaden the scope of rehabilitative benefits available to these patients beyond what is deemed to be treatment per se.

It would also add to each plan the specific objective of improving (and sustaining improvements in) the patient's behavioral functioning. That addition, together with the existing rehabilitation objective to improve a patient's cognitive functioning, would effectively encompass all relevant mental health issues related to TBI. For that reason, we believe the bill's other amendment to separately include a rehabilitation objective for improving "mental health" would create confusion or redundancy. We thus recommend that language be deleted.

Most notably, section 2(a) of S. 957 would establish a new definition of the term "rehabilitative services," for purposes of all of VA's specially targeted, statutory programs for TBI-patients (i.e., 38 U.S.C. §§ 171 0C-E). Such services would include not only those that fall under the current statutory definition found in 38 U.S.C. 1701 but also "services (which may be of ongoing duration) to sustain, and prevent loss of, functional gains that have been achieved." Plus, they would include "any other services or supports that may contribute to maximizing an individual's independence and quality of life." This last definition is overly broad and could be read to include services or items well beyond the field of health care. It is also unworkable. What maximizes an individual's "quality of life" is highly subjective, and, as such, the term defies consistent interpretation and application. Quite simply, we believe enactment of that last provision of the proposed new definition would conflict with, and exceed, our primary statutory mission, which is to provide medical and hospital care. It should therefore be deleted, leaving only the first two prongs of the definition.

Next, as briefly alluded to above, the individualized rehabilitation and reintegration plans required by section 171 0C must include access, where appropriate, to long-term care services. The eligibility and other requirements of VA's mandated comprehensive program of long-term care for the rehabilitation of post-acute TBI are found in 38 U.S.C. § 171 0D. Section 2(b) of S. 957 would require the Secretary to include rehabilitative services (as that term would be defined by Sec. 2(a) of the bill) in the comprehensive program. It would also eliminate the word "treatment" in the description of the interdisciplinary teams to be used in carrying out that program. We have no objection to this proposed revision.

Lastly, Congress authorized VA, under specified circumstances, to furnish hospital care and medical services required by an individualized rehabilitation and reintegration plan through a cooperative agreement. (A cooperative agreement may be entered only with an appropriate public or private entity that has established long-term neurobehavioral rehabilitation and recovery programs.) This authority is found at 38 U.S.C. 1710E. Section 2(c) of S. 957 would add "rehabilitative services" (again as defined by Sec. 2(a) of the bill) to the types of services that may be provided under those agreements. We have no objection to this proposed revision.

Section 2(d) of S. 957 is merely a technical amendment to correct a typographical error in section 171 0C(c)(2)(S) of title 38, United States Code. We would also like to point out another technical issue. Current law permits inclusion of "educational therapists" among the TBI-experts responsible for conducting a comprehensive assessment of each patient. (It is this assessment which serves as the basis for the individualized plans discussed above.) This categorization of professionals is no longer used in the field of medical rehabilitation.

Aside from the two (substantive) modifications discussed above (deleting the phrase "any other services or supports that may contribute to maximizing an individual's independence and quality of life" from the new definition of the term "rehabilitative services," and deleting the bill's amendment to separately include a rehabilitation objective for improving "mental health"), we have no objection to S. 957, and no new costs would be associated with its enactment.

S. 1148 The Veterans Programs Improvement Act of 2011
On June 6, Chairman Murray introduced S.1148, the Veterans Programs Improvement Act of 2011. We note that the bill carries many provisions proposed by the Administration, in its draft Veterans Benefits Improvement Act of 2011, transmitted to the Senate on May 19, 2011. We have not had the opportunity to review the bill closely regarding its technical aspects, but we offer here our support of the general intent of those provisions, and VA's appreciation for your including them for consideration. We believe they are very worthy of the Committee's endorsement. We also look forward to reviewing the other titles of the bill which address VA's programs to combat homelessness as well as VBA's fiduciary program.

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