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STATEMENT OF
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UNDER SECRETARY FOR BENEFITS,
BEFORE THE
SENATE COMMITTEE ON VETERANS' AFFAIRS

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Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on several bills of great interest to veterans. I will comment today only on the provisions of the bills that affect the Department of Veterans Affairs (VA).

S. 117

Section 104 of S. 117, the "Lane Evans Veterans Health and Benefits Improvement Act of 2007," would require the Department of Defense (DoD) to provide members of the National Guard and Reserve comprehensive outreach on the Federal benefits and services available upon deactivation from active duty and upon discharge or release from the Armed Forces. It would also require DoD to consult with the Secretary of Veterans Affairs and other Federal officials and to report to Congress on its actions in this regard.

VA supports the provision of outreach to members of the National Guard and Reserve. However, VA believes such outreach should be provided through the Pre-Discharge program rather than through the Benefits Delivery at Discharge program (BDD). Servicemembers can participate in the Pre-Discharge program within 180 days of discharge. The BDD program, which is a part of the Pre-Discharge program, has more restrictive time frames for participation. Therefore, outreach efforts conducted in conjunction with the Pre-Discharge program would be more likely to reach a greater number of service members. At this time, VA cannot determine the costs that would be associated with this provision.

Section 201 of S. 117 would define temporally and geographically the term "Global War on Terrorism." Because the term "Global War on Terrorism" appears nowhere else in title 38, United States Code, this definition is apparently intended for purposes of section 202, which is addressed below. However, even though S. 117 would not add the Global War on Terrorism to the list in 38 U.S.C. § (11) of "period[s] of war" for VA benefit purposes or terminate the Persian Gulf War period, which is the period of war we are currently in, this amendment could cause confusion as to whether a veteran who served in the Global War on Terrorism would be considered to be a veteran of two periods of war. In addition, this definition would be unnecessary in view of our objections to sections 202 and 203 of the bill.

Section 202 would require VA to establish and maintain an information system to provide a comprehensive record of the veterans of the Global War on Terrorism who seek VA benefits and services and of the benefits and services VA provided to those veterans. The system would be designed to permit accumulation, storage, retrieval, and analysis of information on those veterans, benefits, and services and to facilitate the preparation of quarterly reports on the effects of participation in the Global War on Terrorism on veterans and VA. Section 202(d) would require DoD, at its own cost, to provide VA with information from its Global War on Terrorism Contingency Tracking System as appropriate for purposes of VA's information system. Section

203 would require VA to submit to Congress quarterly reports on the effects of participation in the Global War on Terrorism on veterans and VA beginning not later than 90 days after the bill's enactment. For each quarter, VA would be required to provide quarterly and aggregated personal information, information on military service, and information on health, counseling, and related benefits and services, and on compensation, pension, and other benefits, including burial and cemetery benefits, provided by VA. VA would be required to take appropriate actions in preparing and submitting reports to ensure that no personally identifying information on any particular veteran is included or improperly released.

The bill's requirements to compile and frequently report to Congress massive amounts of data, much of which are not currently available, in the detail and manner specified would force VA to divert considerable resources from our primary responsibilities of providing timely and accurate benefits and services to all veterans, their dependents, and survivors. We are as yet unable to reliably estimate the costs of compliance in terms of both manpower and potential for detracting from our ability to timely administer VA programs, but our initial reaction is that they could be very consequential. We are therefore unable to support sections 202 and 203 of the bill.

We are, of course, mindful of this Committee's oversight responsibilities and would welcome the opportunity to work with staff to identify program information that is currently lacking that would be most helpful to the Committee in meeting its responsibilities.

The Veterans Health Administration (VHA) is in the process of analyzing the feasibility of carrying out the requirements of sections 202 and 203 with respect to health-care services and health-care-related information. We will address the feasibility for VHA in our statement for the Committee's legislative hearing on health-care bills scheduled for May 23, 2007.

Sections 102, 103, and 205 of S. 117 concern DoD. Section 204 of the bill concerns the Department of Labor (DoL). Because these provisions affect only DoD and DoL, VA defers to those departments for comments on these provisions. Section 101 deals with VA health-care matters that will be addressed at the Committee's May 23 hearing.

S. 168

Section 1(b) of S. 168 would require VA to establish a national cemetery in the Pikes Peak region, defined in section 1(a) as the geographic area consisting of Teller, El Paso, Fremont, and Pueblo counties in Colorado. Section 1(c) would require VA to consult with Federal, State, and local officials before selecting a site for the cemetery. Section 1(d) would authorize VA to accept the gift of an appropriate parcel of real property, over which VA would have administrative jurisdiction, to be used to establish the cemetery. The property would be considered a gift to the United States for purposes of Federal income, estate, and gift taxes. Finally, section 1(e) would require VA to report to Congress on the establishment of the cemetery, including an establishment schedule and estimated costs.

VA does not support S. 168 because the need for a new national cemetery in the Pikes Peak region is not demonstrated under the criteria VA has adopted and Congress has endorsed for determining the need for additional national cemeteries. The established criteria require an unserved veteran population threshold of 170,000 within a 75 mile radius as appropriate for establishing new national cemeteries. The vast majority of veterans who reside in the Pikes Peak region are currently served by either Fort Logan National Cemetery or Fort Lyon National Cemetery. Fort Logan National Cemetery will have casket and cremation burial space available until approximately 2020. Fort Lyon National Cemetery will have casket and cremation burial space available until approximately 2030.

As required by law, VA is establishing a total of 12 new national cemeteries, 6 of which have been opened for burials. The locations for these cemeteries were determined from demographic studies of the veteran population, which allow VA to focus its efforts on areas that will serve the greatest number of veterans. The most recent demographic study of the veteran population, which was completed in 2002, did not indicate a need for a new national cemetery in Colorado.

Besides objecting to S. 168 because there is no demonstrated need for a new national cemetery in the Pikes Peak region, we note that the cost of establishing a new cemetery is considerable. Based on recent experience, the cost for establishing new national cemeteries ranges from $500,000 to $750,000 for environmental compliance requirements; $1 million to $2 million for master planning and design; $1 million to $2 million for construction document preparation; $5 million to $10 million for land acquisition, if required; and $20 million to $30 million for construction. The average annual cost for operating a new national cemetery ranges from $1 million to $2 million.

The VA State Cemetery Grants program, however, can provide additional burial options for veterans in the Pikes Peak region. Through this program, VA may provide up to 100 percent of the cost of improvements in establishing a state veterans cemetery, including the cost of initial equipment to operate the cemetery. VA worked with Colorado officials in providing more than $6 million to establish a state veterans cemetery in Grand Junction and would be pleased to assist the State in exploring this option for the Pikes Peak region.

S. 225

Current law provides to members of the uniformed services who are insured under the Servicemembers' Group Life Insurance program coverage against a traumatic injury sustained on or after December 1, 2005, that results in a qualifying loss. In addition, a member of the uniformed services who sustained a traumatic injury between October 7, 2001, and November 30, 2005, that resulted in a qualifying loss is eligible for coverage if the loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom. S. 225 would eliminate the requirement that the loss be the direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom, thereby increasing the number of individuals who could qualify for traumatic injury coverage for injuries sustained before the general effective date of the coverage.

VA defers to DoD on this bill because that department would be responsible for additional costs associated with this change.

S. 423

S. 423, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2007," would mandate a cost-of-living adjustment (COLA) in the rates of disability compensation and dependency and indemnity compensation (DIC) payable for periods beginning on or after December 1, 2007. 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 1.4 percent. This proposal is identical to that proposed in the President's Fiscal Year 2008 budget request to protect the affected benefits from the eroding effects of inflation. VA supports this proposal and believes that the worthy beneficiaries of these benefits deserve no less.

VA estimates that enactment would result in benefit costs of $348.4 million for FY 2008 and $4.7 billion over the period FY 2008-2017.

S. 526

S. 526, the "Veterans Employment and Training Act of 2007," would expand the programs of education for which accelerated payment of educational assistance may be made under the chapter 30 Montgomery GI Bill program. Specifically, this measure would permit accelerated payment of the basic educational assistance allowance to veterans pursuing an approved program of education, in addition to the programs now authorized such payment, lasting less than two years and leading to employment in a transportation, construction, hospitality, or energy sector of the economy. This provision would be effective for four years, from October 1, 2007, through September 30, 2011.

S. 526 is a departure from funding only high-technology, high-cost programs. This bill would limit accelerated payment to programs of study two years or less in length that would lead to employment in specific areas. Expanding accelerated pay for other career fields could be valuable to address existing workforce needs subject to Congress' enactment of legislation offsetting the increased benefits cost. However, any expansion must take into consideration accelerated pay's original intent in developing the workforce for a high-technology industry of the future. If enacted, VA estimates this bill would cost $37 million in Fiscal Year 2008 and approximately $158 million over the period of Fiscal Years 2008-2011.

S. 643

Under the National Service Life Insurance program, a veteran with a service-connected disability may be provided life insurance, known as Service Disabled Veterans Insurance (SDVI). If such an insured veteran is totally disabled under specified conditions that qualify him or her for waiver of premiums under current law, he or she is eligible for supplemental insurance of up to $20,000. S. 643, the "Disabled Veterans Insurance Act of 2007," would increase the amount of available supplemental insurance from $20,000 to $40,000.

Subject to Congress' enactment of legislation offsetting the increased costs associated with the enactment of the new authority, VA does not object to S. 643 because increasing the amount of available supplemental SDVI to $40,000 would address a concern of veterans as reported in an independent study commissioned by Congress, "Program Evaluation of Benefits for Survivors of Veterans with Service-Connected Disabilities." This change would increase the financial security of disabled veterans by affording them the opportunity to purchase additional life insurance coverage otherwise not available to them. The costs that would result from enactment would depend on whether an open season would be provided for SDVI policy holders to apply for the additional supplemental insurance. Currently, approximately 75,500 SDVI policy holders qualify for supplemental insurance. Without an open season, the additional coverage would cost $4.3 million over five years and $14.5 million over 10 years with negligible administrative costs. With a one-year open season, the additional coverage would cost $25.7 million over 5 years and $50.9 million over 10 years with administrative costs of approximately $100,000.

S. 698

S. 698, the "Veterans' Survivors Education Enhancement Act of 2007," would expand and enhance educational assistance under VA's Survivors' and Dependents' Educational Assistance program codified in chapter 35, title 38, United States Code.

Under 38 U.S.C. § 3511(a)(1), an eligible person may not receive educational assistance under chapter 35 for more than 45 months or the equivalent thereof in part-time training. Also, under section 3695(a), a person may not receive more than 48 months of entitlement under chapter 35

and one or more provisions of law listed in that section.
S. 698 would eliminate the 45-month limitation on entitlement under chapter 35 and allow for dependents, spouses, and surviving spouses to receive educational assistance up to a maximum dollar amount. It would also exempt any entitlement received under chapter 35 from the 48-month aggregate maximum entitlement allowed under more than one education benefit program. Thus, for example, an eligible person could receive full entitlement under chapter 35, then go on to receive full entitlement under another education program or vice versa.
While we appreciate the desire to enhance the chapter 35 educational assistance benefit, we do not believe it would be equitable to allow chapter 35 recipients to receive far more benefit dollars up front and overall than veterans, servicemembers, or reservists who are not eligible to receive benefits under chapter 35. There also would be a significant cost associated with making chapter 35 entitlement exempt from the 48-month maximum-entitlement rule.
S. 698 would allow an eligible dependent child to receive educational assistance under the chapter 35 program until the child's thirtieth birthday. Currently, such a child receives educational assistance until age 26 (with certain exceptions). This, of course, would allow more individuals to be eligible for chapter 35 benefits for a longer period of time.
One of the purposes of this chapter is to aid eligible children in reaching the educational status they might have obtained but for the disability or death of the veteran parent. We have no evidence to show that this purpose is not being fulfilled with the current age-26 cut off or that it would be better met if the age for the ending date of a child's period of eligibility were 30.
Under current law the monthly educational assistance allowance for chapter 35 is computed on the basis of the type of training being pursued and the training time. S. 698 would eliminate any fixed monthly educational assistance allowance. S. 698 does not define in what increments payment should be disbursed. Instead, it provides for an aggregate educational assistance amount of $80,000 and allows this to be paid in any amount for institutional courses, vocational training, apprenticeship or other on-job training, farm cooperative programs, and special educational assistance for the educationally disadvantaged and/or special restorative training. Correspondence training for spouses would also be subject to this limit. Educational assistance, including special training allowance, would be provided to eligible persons at an institution located in the Republic of the Philippines at the rate of $.50 for each dollar. S. 698 also specifies that the aggregate educational assistance amount would be increased annually based on the Consumer Price Index.
VA objects to the proposed new educational assistance payment for several reasons. The $80,000 educational assistance amount bears little or no connection to the cost of the education an eligible person might be pursuing. This amount is more than the cost of tuition, fees, room, and board charged at a four-year public school according to the National Center for Education Statistics. It far exceeds the cost of any correspondence course an eligible person might pursue. Furthermore, payment of $80,000 would mean that an apprentice or job trainee under chapter 35 would actually receive a sharp decline in income when training was completed and the journeyman-level wage attained.
Contrary to the stated purpose of chapter 35, if this provision were enacted, an individual eligible for chapter 35 benefits could receive $80,000 in educational assistance without receiving an education. For example, an eligible individual could ask for and receive $80,000 at the start of the first semester of a college program then drop out after a short time. Under this bill and the provisions of existing law concerning mitigating circumstances, the claimant could keep the $80,000 even if the claimant never pursued any education program again. This bill would

remove the incentive for a student to complete a program of educational training and, in effect, separate the benefit from the whole program.

Finally, this provision as written would allow any eligible person to request a lump-sum payment of $80,000 as soon as the person enrolled in an approved training program. Thus, persons currently receiving chapter 35 benefits could also request a lump-sum payment of $80,000 as soon as this bill is enacted, regardless of how much they have already received in chapter 35 benefits. This would result in significant up-front costs.

The amendments made by S. 698 would be effective as of the date of enactment of the Act. Since the bill eliminates the months of entitlement charged for chapter 35 benefits, those persons still within their delimiting date on the day the bill is enacted could request a lump-sum payment of $80,000 even if they had previously exhausted their entitlement under the current law. The bill does not address such transitional issues for current chapter 35 beneficiaries and those eligible persons still within their delimiting date.

Moreover, VA estimates that, if enacted, S. 698 would cost $7.2 billion in Fiscal Year 2008, $9.6 billion for the first 5 years, and $13.1 billion over the 10-year period from Fiscal Year 2008 through Fiscal Year 2017. Enactment of this bill would also require extensive computer system changes, which VA estimates would cost $3 million.

For the foregoing reasons, VA cannot support S. 698.

S. 847

Current law provides a presumption that certain diseases manifesting in veterans entitled to the presumption were incurred in or aggravated by service, that is, that the diseases are service connected, even if there is no evidence of such diseases in service. A presumption is provided for certain chronic diseases if manifested to a degree of disability of 10-percent or more within one year of separation from service, for certain tropical diseases if manifested to a degree of disability of 10-percent or more (generally) within one year of separation from service, for active tuberculosis or Hansen's disease if manifested to a degree of disability of 10-percent or more within three years of separation from service, and for multiple sclerosis if manifested to a degree of disability of 10-percent or more within seven years of separation from service. S. 847 would eliminate the requirement that the manifestation of multiple sclerosis occur within seven years of separation from service to trigger the presumption.

VA does not support enactment of this bill. First, the current presumptive period of seven years is already the most generous one provided under 38 U.S.C. § 1112(a). Second, we are aware of no scientific or medical justification for presuming multiple sclerosis to be service connected, no matter how long after service it first manifests, in light of the medical literature indicating that there is genetic susceptibility to this disease of unknown cause. Even if a veteran cannot qualify for the current presumption, service connection is not precluded under current law if the veteran can establish that his current multiple sclerosis is in fact related to his or her service. Further liberalization would appear to undermine the purpose of providing compensation for disabilities incurred in or aggravated by active service.

VA estimates that the benefit costs of this bill if enacted would be $185.5 million in the first year and $4.9 billion over ten years. We estimate administrative costs to be $4.7 million for 68 full-time employees the first year and $85.3 million for 96 full-time employees over 10 years.

S. 848

Section 2(a) of S. 848, the "Prisoner of War Benefits Act of 2007," would eliminate the

requirement that a veteran have been detained or interned as a prisoner of war (POW) for at least 30 days to be entitled to a presumption of service connection for certain diseases currently listed in 38 U.S.C. § 1112(b)(3). Section 2(b) would add two diseases, diabetes (type 2) and osteoporosis, to the list of diseases in section 1112(b) that may be presumed to be service connected for former POWs.

VA does not support elimination of the 30-day minimum internment requirement because it is not reasonable to assume that extreme deprivation of the type that could cause diseases listed in section 1112(b), such as those resulting from nutritional deficiencies, would occur in less than 30 days. Just a few years ago, section 1112(b) limited the presumption of service connection for specified diseases associated with the POW experience to veterans who were former POWs and were detained or interned for not less than 30 days. However, section 201 of the Veterans Benefits Act of 2003, Pub. L. No. 108 183, § 201, eliminated the 30-day requirement for psychosis, any anxiety state, dysthymic disorder, organic residuals of frostbite, and post-traumatic osteoarthritis. In implementing that amendment in its regulations, VA noted that the diseases that remained subject to the 30-day requirement, such as diseases associated with malnutrition, are generally incurred over a prolonged period of internment. Interim Final Rule, Presumptions of Service Connection for Diseases Associated with Service Involving Detention or Internment as a Prisoner of War, 69 Fed. Reg. 60,083, 60,088 (2004). Such a requirement is appropriate for certain diseases if the evidence indicates that they are associated only with prolonged captivity, such as with maladies normally resulting from nutritional deprivation. Accordingly, VA does not support elimination of the 30-day minimum internment requirement.

With respect to adding diabetes (type 2) and osteoporosis to the list of diseases that may be presumed to be service connected for former POWs, VA is not aware of any sound scientific or medical evidence of an association between these diseases and internment as a POW. Accordingly, VA does not support section 2(b) of S. 848.

Section 2(c) of S. 848 would authorize VA to establish a presumption of service connection for former POWs for any disease for which VA has determined, based on sound medical and scientific evidence, that "a positive association exists between (i) the experience of being a [POW] and (ii) the occurrence of [the] disease in humans." Section 2(c) would also require VA to issue certain regulations and, in determining whether a positive association exists, to consider recommendations from the Advisory Committee on Former Prisoners of War and all other available sound medical and scientific information and analyses.

VA does not support the procedure in section 2(c) for establishing presumptive service connection for diseases associated with POW internment because more appropriate and effective regulatory procedures for identifying diseases associated with POW internment already exist. Pursuant to the Secretary's authority provided by 38 U.S.C. § 501(a) to prescribe all rules and regulations necessary or appropriate to carry out the laws administered by VA, including regulations with respect to the nature and extent of proof and evidence, VA has promulgated regulations, codified at 38 C.F.R. § 1.18, establishing a new procedure for establishing POW presumptions. VA's establishment of presumptive service connection for heart disease and stroke, which was done under VA's regulatory procedure, demonstrates that the new procedure is effective.

Section 2(c) of the bill would require VA, within specified periods, to publish a notice or regulations in response to recommendations received from the Advisory Committee on Former Prisoners of War. Under 38 U.S.C. § 541(a)(2), the Committee comprises representatives of former POWs, disabled veterans, and health care professionals. Under current law, VA must

regularly consult with the Committee and seek its advice on the compensation, health-care, and rehabilitation needs of former POWs. Not later than July 1 of each odd-numbered year through 2009, the Committee must submit to VA a report recommending, among other things, administrative and legislative action. The procedure outlined in section 2(c) of S. 848 would require VA, within 60 days of receiving a Committee recommendation that a presumption be established for a disease, to determine whether a presumption is warranted. If VA determines that a presumption is warranted, we would have to issue proposed regulations within 60 days following that decision and issue a final rule within 90 days of issuing the proposed rule. If VA determines that a presumption is not warranted, we would have to publish a Federal Register notice explaining the scientific basis for the determination within 60 days of making the determination.

This procedure is similar to the procedure that Congress established for herbicide and Gulf War presumptions under 38 U.S.C. §§ 1116 and 1118, both of which generally concern VA rulemaking following the receipt of a report from the National Academy of Sciences. However, unlike the herbicide and Gulf War procedures, S. 848 would require strict guidelines for rulemaking in response to Committee recommendations, which do not provide a thorough scientific review and analysis upon which to establish presumptions. A determination as to whether a disease should be added to the list of diseases warranting presumptive service connection involves a lengthy process of scientific study. Sixty days is not sufficient to conduct such a process. Under current 38 C.F.R. § 1.18, the Secretary may contract with the appropriate expert body, such as the National Academy of Sciences' Institute of Medicine, for the necessary analysis of current science. We believe this regulation provides a more scientifically sound basis for creation of presumptions than that contemplated by S. 848.

Based on the amendments that would be made by section 2(a) of S. 848, VA estimates that approximately 99 former POWs would be affected by this legislation and would apply for benefits in the first year and 1,102 would apply in the first ten years. Assuming a 100-percent grant rate, we further estimate that benefit costs would be $808,000 in the first year and $9.9 million over ten years.

Based on the amendments that would be made by section 2(b) of S. 848, VA estimates that approximately 4,045 former POWs would be affected by this legislation and would apply for benefits in the first year and 44,855 in the first ten years. Assuming a 100-percent grant rate, we further estimate that benefit costs would be $36.3 million in the first year and $442.9 million over ten years.

In addition, VA estimates that approximately 2,005 surviving spouses would be affected by the amendments that would be made by section 2(b) of S. 848 and would apply for benefits in the first year and 27,332 would apply in the first ten years. Assuming a 100-percent grant rate, we estimate further benefit costs of $27.5 million in the first year and $392.6 million over ten years.

We estimate administrative costs to be $2.4 million for 29 full-time employees in the first year and $5.1 million over five years.

Although section 2(c) would allow VA to add and remove presumptive diseases, VA does not anticipate any regulatory changes. Therefore, there are no benefits savings or costs associated with this authority.

S. 961

S. 961, the "Belated Thank You to the Merchant Mariners of World War II Act of 2007," would require VA to pay to certain merchant mariners $1,000 per month. This new benefit would be

available to an otherwise qualified merchant mariner who served between December 7, 1941, and December 31, 1946, and who received an honorable-service certificate from the Department of Transportation or DoD. The surviving spouse of an eligible merchant mariner would be eligible to receive the same monthly payment provided that he or she had been married to the merchant mariner for at least one year.

VA does not support enactment of this bill for several reasons. First, to the extent that S. 961 is intended to offer belated compensation to merchant mariners for their service during World War II, many merchant mariners and their survivors are already eligible for veterans' benefits based on such service. Pursuant to authority granted by section 401 of the GI Bill Improvement Act of 1977, Public Law 95-202, the Secretary of Defense in 1988 certified merchant mariner service in the oceangoing service between December 7, 1941, and August 15, 1945, as active military service for VA benefit purposes. As a result, these merchant mariners are eligible for the same benefits as other veterans of active service. This bill appears to contemplate concurrent eligibility with benefits merchant mariners may already be receiving from VA-a special privilege that is unavailable to other veterans.

Second, there can be no doubt that merchant mariners were exposed to many of the same rigors and risks of service as those confronted by members of the Navy and the Coast Guard during World War II. However, the universal nature and the amount of the benefit this bill would provide for individuals with qualifying service are difficult to reconcile with the benefits VA currently pays to other veterans. S. 961 would create what is essentially a service pension for a particular class of individuals based on no eligibility requirement other than a valid certificate of honorable service from the Department of Transportation or the DoD. Further, this bill would authorize payment to a merchant mariner, simply based on qualifying service, of a benefit greater than the benefit currently payable to a veteran for a service-connected disability rated as 60-percent disabling. Because the same amount would be paid to surviving spouses under this bill, there would be a similar disparity in favor of this benefit in comparison to the basic rate of DIC for surviving spouses provided under chapter 13 of title 38, United States Code.

VA estimates that enactment of S. 961 would result in a total additional benefit cost of approximately $234.1 million in the first fiscal year and an additional benefit cost of $1.4 billion over ten years. We also estimate that additional administrative costs associated with the need for more employees to process claims for the new monetary benefit would be $893,000 during the first fiscal year and $6 million over ten years.

S. 1096

VA's opinion on the various sections of this bill follow. Whenever VA supports or does not object to a particular section of the bill, it is subject to Congress' enactment of legislation offsetting the increased costs associated with the enactment of the new authority.

Section 2 of S. 1096, the "Veterans' Housing Benefits Enhancement Act of 2007," would make certain members of the Armed Forces eligible to receive grants for home improvements and structural alterations (HISA) that are needed for the continuation of treatment or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvement and alterations would be subject to the statutory dollar limits set forth in 38 U.S.C. § 1717(a)(2)(A) and (B). Section 2 would extend eligibility for HISA grants to service members: (1) who the Secretary of Veterans Affairs determines have a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service; (2) who are receiving outpatient medical care, services, or treatment for that disability; and (3) who are likely to be

discharged or released from the Armed Forces for that disability, as determined by the Secretary of Veterans Affairs.

These grants would be one-time grants. If a covered service member uses the HISA grant for a home located near his or her military duty station, that individual would not qualify for another grant if he or she relocates for any purpose after discharge or release from service. VA has no objection to section 2.

Pursuant to 38 U.S.C. § 2101, VA may provide Specially Adapted Housing (SAH) assistance to eligible veterans and active duty service members who suffer from certain permanent and total service-connected disabilities. Section 3 of this bill would add "severe burn injuries" to the types of specified disabilities and would allow VA to determine what criteria constitute such a burn injury. VA favors enactment of this provision, but points out that as written it would exclude active duty service members as eligible recipients. Therefore, VA recommends that the Committee amend the bill to revise existing section 2101(c) to ensure that otherwise eligible active duty service members are not excluded from this important benefit.

VA also recognizes that many burns, regardless of the severity or extent of the injury, may not be considered "permanent and total" but, nevertheless, may require years of special care and convalescence. As such, VA recommends that section 2101 be amended so that severe burn injuries are excepted from the permanent and total disability requirement for SAH assistance.

VA currently cannot project costs for section 3 because the number of qualifying severely burned service members is unknown. We do know from DoD data (April 2003-April 2005) that burns constitute five percent of all Operation Iraqi Freedom or Operation Enduring Freedom combat-related injuries, with an average total burned body surface area of 22 percent. However, we do not know the extent to which such burn victims would qualify under section 3 of S. 1096.

Section 4 would require VA to report to Congress about existing authorities for SAH assistance for disabled veterans. The report would focus on veterans who have disabilities not already described in 38 U.S.C. § 2101 and would be submitted to the Committees on Veterans' Affairs in the Senate and House of Representatives no later than December 31, 2007. VA does not oppose this provision, but the Committee may prefer to revise subsection (a)(2) of this section by changing the "or" after the semicolon to "and", to clarify that the Committees would like a report on all items specified. VA also recommends that the Committee clarify whether VA should include in the report data on active duty service members.

Under 38 U.S.C. § 3901(1), VA may provide automobile and adaptive equipment to eligible veterans and active duty service members. Section 5 of S. 1096 would add "severe burn injuries" to the existing list of enumerated qualifying injuries and would require VA to promulgate necessary implementing regulations. VA favors enactment of this provision, subject to Congress' enactment of legislation offsetting the benefits cost of such enactment.

VA currently cannot project costs for section 5 because the number of qualifying severely burned service members is unknown. As indicated above, we do know some information about burn injuries. However, we do not know the extent to which such burn victims would qualify under section 5 of S. 1096. We presume the number would be small and note that the average cost of adaptive equipment is approximately $4,000.

Section 6 would expand the categories of persons eligible for SAH assistance provided under 38 U.S.C. § 2102A to include certain members of the armed forces residing temporarily with family members. Until recently, VA was not authorized to provide either a veteran or an active duty service member with SAH assistance if the veteran or active duty service member intended to reside temporarily with a family member. This changed, in part, with the enactment of Public

Law 109-233, which made veterans eligible for such assistance. Yet, Public Law 109-233 did not include active duty service members as eligible recipients. VA supports the objective of this section, which is to grant similar assistance to active duty service members. However, VA cannot support this section as currently drafted because it would create a definitional conflict in the statute that could potentially create different classes of active duty service members eligible for SAH assistance. Section 6 also would require VA to report on assistance for disabled veterans and members of the armed forces who reside in housing owned by a family member on a permanent basis. The report would need to be submitted to the Committees on Veterans Affairs in the Senate and House of Representatives no later than December 31, 2007. VA is not opposed to this provision.

S. 1163

Section 2 of S. 1163, the "Blinded Veterans Paired Organ Act of 2007," would liberalize the eligibility for compensation and SAH benefits for veterans in certain cases of impairment of vision involving both eyes. Under current law (38 U.S.C. § 1160(a)), a veteran with service-connected blindness in one eye and nonservice-connected blindness in the other eye may be compensated as though the combination of both disabilities were service connected. Section 2(a) would replace the entitlement requirement of "blindness" with impairment of vision in each eye of visual acuity of 20/200 or less or of a peripheral field of vision of 20 degrees or less (the definition of "legal blindness" adopted by all 50 states and the Social Security Administration (SSA)). Also, under current law (38 U.S.C. § 2101(b)), a veteran entitled to compensation for "permanent and total service-connected disability" due to blindness in both eyes with 5/200 visual acuity or less is entitled to SAH assistance. Section 2(b) would replace the entitlement requirement of "blindness . . . with 5/200 visual acuity or less" with a requirement of visual acuity of 20/200 or less or of a peripheral field of vision of 20 degrees or less.

Subject to Congress' enactment of legislation offsetting the increased costs associated with the enactment of the provision, VA supports the amendment that would be made by section 2(a) because it would treat visual impairment in both eyes similarly to the way hearing loss in both ears is treated under current law. The amendment would be consistent with a prior amendment to section 1160(a) pertaining to special consideration for hearing loss in both ears. Before that amendment, a veteran with service-connected total deafness in one ear and nonservice-connected total deafness in the other ear could be compensated as though the combination of both disabilities were service connected. In 2002, section 103 of Public Law 107 330 amended section 1160(a)(3) to replace the requirement of "total deafness" with "deafness compensable to a degree of 10-percent or more" for the service-connected impairment and "deafness" for the nonservice-connected hearing loss.

However, VA opposes the amendment that would be made by section 2(b) of S. 1163, primarily because it would treat visual impairment differently from the other disability that warrants SAH assistance under section 2101(b). The other disability that warrants such assistance is anatomical loss or loss of use of both hands. Not only do anatomical loss and loss of use of both hands warrant a higher schedular rating than the degree of visual impairment that section 2(b) would substitute for the current criterion of blindness, they also warrant special monthly compensation. Furthermore, section 2(b) would create an inconsistency in the requirements for SAH assistance under section 2101(b)(2). The overriding requirement for assistance is that a veteran have a "permanent and total" service connected disability of the specified nature. Visual acuity of 20/200 or less or a peripheral field of vision of 20 degrees or less, even when present in both

eyes, does not warrant a total disability rating.

VA estimates that enactment of section 2(a) of S. 1163 would result in a benefit cost of $893,000 in the first year and $11.4 million over 10 years. VA estimates that enactment of section 2(b) would result in a benefit cost of $480,000 for 48 new SAH grants in the first year. The cost of additional SAH grants is less than $500,000 annually and is therefore insignificant. There are no administrative costs associated with these provisions.

Section 3 of S. 1163 would require the use of the National Directory of New Hires (NDNH) for income-verification purposes for certain veterans benefits. It would require the Department of Health and Human Services (HHS) to compare information provided by VA on individuals under 65 years of age who are applicants for or recipients of VA pension benefits (under chapter 15 of title 38, United States Code), parents' DIC benefits (under section 1315 of title 38, United States Code), health-care services (under section 1710(a)(2)(G), (a)(3), and (b) of title 38, United States Code), and compensation paid at the rate of 100 percent based solely on unemployability (under chapter 11 of title 38, United States Code) with information in the NDNH and disclose information in that directory to VA solely for the purpose of determining an individual's eligibility for such benefits or the amount of such benefits to which the individual is entitled if the individual is under 65 years old. VA would be required to reimburse HHS for the costs incurred by HHS in providing this information. VA would be responsible for providing notice to applicants for or recipients of VA benefits whose information is being disclosed and for independently verifying information relating to employment and income from employment if VA terminates, denies, suspends, or reduces any benefit or service as a result of information obtained from HHS. Furthermore, an individual would have the opportunity to contest any findings made by VA when verifying the information. VA's expenses related to use of this directory for income-verification purposes would be paid from amounts available for the payment of VA compensation and pension. The authority for the income verification would expire on September 30, 2012.

The NDNH, which was established as part of the Federal Parent Locator Service by 42 U.S.C. § 653, provides a national directory of employment, wage, and unemployment compensation information to facilitate employment and income verification. Under 42 U.S.C. § 653a(g)(2), State Directories of New Hires are required to furnish information regarding newly hired employees within 3 business days after the date information is entered into the State Directory of New Hires. In addition, it requires that, on a quarterly basis, State Directories of New Hires must furnish to the NDNH information concerning the wages and unemployment compensation paid to individuals.

The Privacy Act allows agencies to disclose records maintained in systems of records to other agencies pursuant to computer data matching programs authorized by law. All computer data matching programs must be formalized by a written agreement that specifies, among other things, the justification for the program and the anticipated results, including a specific estimate of any savings.

As currently drafted, section 3 of this bill would make the data match between VA and HHS mandatory, except to the extent that HHS determined that it would interfere with the effective operation of part D of title IV of the Social Security Act, "Child Support and Establishment of Paternity." Accordingly, section 3 could conceivably require VA to enter a computer data matching program for which little or no justification exists and for which costs savings are unlikely. The decision to enter into a computer matching agreement under section 3 should be within the sound discretion of VA, instead of a mandatory requirement. In addition, any

administrative expenses associated with data matching should be paid from VA discretionary administration accounts and not from mandatory entitlement accounts.

VA currently matches data with the Internal Revenue Service (IRS) and the SSA. As a result of these matches, VA obtains unearned and earned income data concerning its needs-based applicants and beneficiaries. VA's authority to use the NDNH for VA health-care services would not substantially improve the current income verification activities of VHA. It would add an interim match step into the current process VHA has established for income matching, which would not be definitive for the majority of veterans for whom matching is required. While the data may be more current than existing match data from the IRS and SSA, it is not a comprehensive income reporting source, particularly since it does not include unearned income. VA believes that the cost of adding such a match to the income verification business process and information and technology support systems is unlikely to be recouped by any substantial gain to the Government from integrating such a match into the income verification process. VA does not support enactment of section 3 as it applies to VA health-care services because VA believes it is unnecessary.

VA's authority to use the NDNH to determine eligibility for certain other VA monetary benefits or the amount of such benefits for individuals under 65 years of age would have limited benefit with respect to eligibility determinations for pension benefits and parents' DIC and continued eligibility for individual unemployability benefits. Although eligibility for pension and parents' DIC depends on income, currently available statistics show minimal overpayments due to new employment. Furthermore, the average age of recipients of pension and parents' DIC is more than 65 years, and the only other source of income for most individuals who receive pension is Social Security benefits. In addition, with respect to continued eligibility for individual unemployability, regulations require a showing of sustained employment before adjusting individual unemployability awards. Thus, the utility of income verification for individuals receiving individual unemployability is not as great.

VA's authority to use the NDNH would result in an additional expense for VA, and we believe that the cost of using the NDNH is unlikely to be recouped by any gain that might result from eligibility determinations with respect to pension benefits and parents' DIC, and continued eligibility for individual unemployability benefits. However, significant savings could be realized from use of the NDNH database as an initial screening tool to make initial eligibility determinations for individual unemployability. Through its matches with SSA and IRS, VA has discovered cases where individual unemployability was awarded based on incorrect data furnished by the applicant. Because the NDNH data is more up-to-date, VA might discover some errors through the NDNH match up to three years earlier than it would have discovered the error if it relied on SSA and IRS matches.

VA estimates that enactment of section 3 of S. 1163 would result in a cost to reimburse HHS for comparing our income data with data from the NDNH of $1 million in the first year and $4 million over 5 years, after which time the agreement would expire. VA also estimates that section 3 would result in benefit savings of $940,000 in the first year and $16.7 million over 10 years, resulting in an overall savings of $12.7 million. There are no other administrative costs associated with this provision.

S. 1215

Section 1 of S. 1215 would authorize reimbursement from VA's readjustment benefits account to state approving agencies (SAAs) for certain expenses incurred in the administration of VA

education benefit programs, not to exceed $19 million in any year. The current funding amount is $19 million for Fiscal Year 2007. However, that amount would revert to $13 million in Fiscal Year 2008 and subsequent fiscal years without legislative intervention.

VA, consistent with a recent Government Accountability Office recommendation, is taking steps to coordinate its approval activities with other agencies and is considering ways to streamline the approval process. Regardless of any such activities, we anticipate that funding at the reduced level would cause SAAs to reduce staffing proportionately, severely curtail travel and outreach activities, and perform fewer approval/supervisory duties under their VA contracts. Some SAAs might decline to contract with VA altogether, requiring that VA employees assume their duties.

We have been asked to disregard section 2 of this bill.

Section 3 of S. 1215 would permit DoL to waive the current requirement that state Veterans' Employment and Training directors be residents of the state in which they serve for at least two years prior to their appointment if the waiver is in the public interest. VA defers to the DoL on this portion of the bill since it is within that Department's subject matter jurisdiction.

Section 4 of S. 1215 would modify the requirements for the biennial study by DOL of unemployment among certain veterans to include those who served during and after the Global War on Terror. Studies of these groups would be completed in place of the associated studies for Vietnam era veterans and in addition to those of the other veteran populations also identified for the study. VA also defers to DoL on this portion of the bill since it is within that Department's subject matter jurisdiction.

Section 5 would temporarily continue the 10-percentage-point increase (authorized under section 103 of Public Law 108-454; 118 Stat. 3600) of the monthly educational assistance allowance payable for an individual pursuing apprenticeship or other on-job training at the full-time program rate under the Montgomery GI Bill or Active Duty and Selected Reserve programs (chapter 30 of title 38 and chapter 1606 of title 10, United States Code, respectively) and the chapter 32 Post-Vietnam Era Veterans' Educational Assistance program. It would also continue the increase in the educational assistance allowance for such training under chapter 35 of title 38, United States Code (currently, for the first six months of training, $676; for the second six months of training, $527; and for the third six months of training, $380). This amendment would be effective for months beginning on or after January 1, 2008, and before January 1, 2010.

If enacted, VA estimates S. 1215 would cost $6 million in Fiscal Year 2008, approximately $44 million for the first five years and $740 million over the 10-year period from Fiscal Years 2008 through 2017.

Subject to Congress' enactment of legislation offsetting the increased benefits costs of S. 1215, VA has no objection to the enactment of this bill.

S. 1265

Current law provides eligibility for mortgage life insurance to certain disabled veterans who have been granted assistance in obtaining SAH. S. 1265 would extend this eligibility to members of the Armed Forces who meet the same eligibility criteria.

Subject to Congress' enactment of legislation offsetting the increased costs associated with the enactment of the new authority, VA supports the enactment of this bill because it would correct an oversight made when eligibility for SAH was extended to members of the Armed Forces. Mortgage life insurance was available for veterans receiving SAH assistance but was not available to the newly eligible Armed Forces members. This bill would rectify that disparity.

VA estimates that enactment of this bill would cost $431,170 over five years.

Draft Bill
To amend title 38, United States Code, to establish a program of educational assistance for members of the Armed Forces who serve in the Armed Forces after September 11, 2001, and for other purposes.

This draft bill, the "Post-9/11 Veterans Educational Assistance Act of 2007," would add a new chapter 33 to title 38, United States Code, that would, in general, require that, to be eligible for educational assistance under the new chapter 33 program, an individual must serve at least two years of active duty with a least some period of active duty time served beginning on or after September 11, 2001. It would, for most individuals, link the number of months of educational assistance benefit to the individual's months of service after September 11, 2001, but, in general, not provide for more than 36 months of benefits, with the educational assistance to cover the established charges of the program of education, room and board, and a monthly stipend of $1,000. Chapter 33 would provide for educational assistance for less-than-half time education, apprenticeships, on-job training, correspondence courses, and flight training. Chapter 33 also would provide payment for tutorial assistance, not to exceed $100 per month for a maximum of 12 months, and one licensing or certification test, not to exceed the lesser of $2,000 or the test fee. Generally, individuals would have 15 years to use their educational entitlement beginning on the date of their last discharge or release from active duty. VA would administer this program with payments of assistance made from funds made available to VA for the payment of readjustment benefits. In general, individuals eligible for benefits under chapter 30 of title 38, United States Code, or chapters 107, 1606, or 1607 of title 10, United States Code, could irrevocably elect, instead, to receive educational assistance under chapter 33.

We have serious concerns about certain provisions of the "Post-9/11 Veterans Educational Assistance Act of 2007" and therefore oppose it. The complexity of eligibility rules, anticipated cost, and administrative burden associated with this bill are all problematic.

As currently written, eligibility criteria for the proposed chapter 33 are more complex than the current GI Bill. Entitlement determinations factoring in length of service and previous benefit usage would also be highly complex and difficult for individuals to fully understand.

The increased amount of benefits payable at varying levels for different institutions would make administration of this program cumbersome. The requirement that the benefit be paid at the beginning of the term would further complicate administration and would tax existing VA resources. Section 3313(j)(2) would require VA to annually determine which public schools in each state have the highest in-state tuition rate and set the established charges for each state accordingly. This labor-intensive process would need to be completed annually in sufficient time to prepare for issuance of payments in advance of the term. Further, as written, this bill would be effective the date of enactment. It would be necessary to prescribe regulations, make systems changes, and make other key adjustments to support the components of this bill. It is also likely that other sections within title 38, United States Code, may need to be amended to address overpayment of the monthly stipend. For the above reasons, it is not feasible for VA to begin making payments under the proposed chapter 33 benefit immediately.

It also appears that, if enacted, the bill might have some unintended consequences. For example, the subsistence payment of $1,000 per month would be payable to individuals attending degree and non-degree programs and those who are completing internships and on-the-job training programs. This seems inequitable, as it would treat an individual in an apprenticeship program who is earning wages the same as a college student who is incurring expenses. It is also unclear

what effect this benefit would have on recruiting and retention. While we defer to DoD on this matter, we acknowledge that this may lead to lower reenlistments.

If enacted, VA estimates that the "Post-9/11 Veterans Educational Assistance Act of 2007" would result in benefit costs of $5.4 billion during Fiscal Year 2008, $32.2 billion for fiscal years 2008 through 2012, and $74.7 billion over the 10-year period from Fiscal Year 2008 through 2017. Significant administrative costs would also be incurred. As previously noted, section 3313(j)(2) would require VA to annually determine which public schools in each state have the highest in-state tuition rate and set the established charges for each state accordingly. This labor-intensive process would need to be completed annually in sufficient time to prepare for issuance of payments in advance of the term.

Further, since VA's obligation is to ensure that veterans and service members receive the most advantageous benefit, VA would be obligated to reevaluate all existing claims and award the greater chapter 33 benefits, as appropriate. The initial year of the program would require VA to double our current Education FTE in an attempt to meet the workload increase. Extensive system changes would be needed to make lump sum payments to all beneficiaries before the start of the term. VA also would need to develop technological system changes to account for the payment rate variations from state to state. This would be problematic because VA is in the midst of changing from one payment system (Benefits Delivery Network) to another (Veterans Services Network).

Based on these factors, we would anticipate substantial administrative costs, but cannot fully estimate them without further research.

VA does not have comments on the other bills included on the agenda for today's hearing because it did not receive them in time to develop and clear views and estimate costs.

This concludes my statement, Mr. Chairman. I would be happy now to entertain any questions you or the other members of the Committee may have.