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HEARING ON PENDING LEGISLATION

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WEDNESDAY, JUNE 29, 2016

United States Senate,  
Committee on Veterans Affairs,  
Washington, D.C.

The committee met, pursuant to notice, at 2:28 p.m., in Room 418, Russell Senate Office Building, Hon. Johnny Isakson, chairman of the committee, presiding.

Present: Senators Isakson, Heller, Cassidy, Tillis, Sullivan, Blumenthal, Murray, Brown, Tester, and Hirono.

OPENING STATEMENT OF CHAIRMAN ISAKSON

Chairman Isakson. I call this meeting of the Senate Veterans Affairs Committee to order.

We are going to start right on time. We have a number of members who wish to address legislation they have proposed. We have an agenda of 18 bills that are before the Veterans Affairs Committee, so it is going to be a lengthy hearing, and I know there are Senators that have places to be.

I am going to waive my own opening statement, and with Ranking Member Blumenthal, we will make our statements later in the day in respect for the Senators that are here.

As is tradition with our committee, we will give each Senator up to five minutes to make a presentation on their

1 legislation. As is tradition, we do not enter into Q and A  
2 as committee members, but once you have made your testimony,  
3 you may leave if you would like. If you wish to stay, you  
4 are welcome to stay and we are delighted that you came.

5 We will start with the first testimony from Senator  
6 Inhofe.

1                   STATEMENT OF HONORABLE JAMES M. INHOFE, A UNITED  
2                   STATES SENATOR FROM THE STATE OF OKLAHOMA

3           Senator Inhofe. Thank you, Mr. Chairman. I appreciate  
4 it very much.

5           In 2010, Congress passed the Post-9/11 Veterans  
6 Education Assistance Improvement Act. This Act authorized  
7 veterans to use their benefits to pursue a technical or  
8 career certificate program as an option instead of  
9 traditional liberal arts opportunities at a college or  
10 university. It is kind of interesting. I am the right one  
11 to do this, because in the State of Oklahoma, I actually  
12 introduced the first legislation back in the 1970s to  
13 establish these technical training areas. So, I am very  
14 partial to them. The Career Technical Centers, CTEs, are  
15 public, not private, not-profit, non-degree granting  
16 institutions that provide skills and certificates important  
17 to every community and are found in over ten states.

18           The city of Enid, Oklahoma, has been the home of the  
19 Autry Technology Center. Now, you and I may be the only two  
20 here old enough to remember who Gene Autry is. You, too?  
21 All right.

22           [Laughter.]

23           Senator Inhofe. Well, anyway, he is an Oklahoman, in  
24 case you did not know. The Autry Technology Center, since  
25 1967, and serves over 10,000 people annually through

1 programs and services that enhance skills and employment  
2 opportunities. Autry currently offers 26 full-time career  
3 programs, from air conditioning to culinary arts,  
4 radiologist, and several other critical applied skills used  
5 nationwide.

6 Public, not-profit centers in the Oklahoma Career Tech  
7 System, like Autry, in Enid, are proven to significantly  
8 contribute to the economic development and quality of life  
9 in Oklahoma, especially to returning veterans. Career and  
10 Technical Education Centers are vital as post-secondary  
11 education options and workforce training system for our  
12 veterans.

13 But the administration recently took action to block  
14 certain technical center benefits from our veterans. Since  
15 March, the VA is not allowing the Post-9/11 G.I. Bill to pay  
16 for any form of independent study from a non-degree  
17 producing institution, including CTEs. In many cases, this  
18 hindrance precludes veterans from utilizing these courses in  
19 pursuing these certificate programs.

20 CTEs, much like their college and university  
21 counterparts, are utilizing Internet-based courses as a  
22 component of their programs to provide flexibility for  
23 working adults in expanding those programs. Unlike colleges  
24 and universities, however, CTEs are not technically degree  
25 producing, so the VA is preventing the use of G.I. Bill

1 funds for any CTE program that has independent study.

2 Marcie Mack, the State Director of Oklahoma's Career  
3 Technology System, told me last week that her--this is her  
4 quote--she said, "Oklahoma's Career Tech System is committed  
5 to serving U.S. military veterans. However, with current  
6 federal policy, there are obstacles for our veterans to be  
7 able to participation in the Oklahoma Career Tech System and  
8 receive their benefits."

9 Now, to address the current policy issues, I have  
10 introduced, and it is before this committee now, S. 3021,  
11 along with Senator Lankford, clarifying the law to ensure  
12 accredited CTE programs can continue to receive G.I. Bill  
13 benefits even if a portion of the program is done through  
14 independent study.

15 In the time since I introduced this legislation, I have  
16 heard concerns from this committee about whether this would  
17 open the door for bad actors in the education space to take  
18 advantage of these benefits. Now, my staff has worked with  
19 your staff, your guys. They have explored these concerns  
20 and have modifications to the language that is in the bill  
21 now to ensure that the bill does not have negative  
22 unintended consequences. It is my hope that the committee  
23 will quickly consider this legislation.

24 I deeply appreciate the attention the committee has  
25 given to my bill and I look forward to continuing my work to

1 ensure that this problem is addressed.

2 Now, there is not time to go into the other one, but I  
3 have another piece of legislation because there has been a  
4 problem with the VA centers in Oklahoma, the Muskogee  
5 Center, the Oklahoma City Center, the Tulsa Center, and it  
6 has only been with my office's dedicated attention that  
7 these clinics have any progress being made.

8 We have been helped by Ralph Gigliotti. He is the VISN  
9 Director for our area. He is really good. I sing his  
10 praises. He is outstanding. He has been very supportive.  
11 And we have some legislation that is called S. 2554 that  
12 would give the VISNs more options, more authority to get  
13 things done, because they are the ones who are really  
14 capable of getting it done.

15 So, while that is not in the--it is in the committee.  
16 It has not been considered yet. I would like to have you  
17 consider that at your earliest convenience.

18 Chairman Isakson. Well, we appreciate your testimony  
19 on education as well as on the VISNs. We look forward to  
20 working with you on legislation and appreciate your interest  
21 in our veterans.

22 Senator Inhofe. Thank you.

23 Chairman Isakson. Senator Fischer.

1                   STATEMENT OF HONORABLE DEB FISCHER, A UNITED  
2                   STATES SENATOR FROM THE STATE OF NEBRASKA

3           Senator Fischer. Thank you, Mr. Chairman. Good  
4 afternoon and thank you for holding this hearing.

5           This committee has addressed some of the most difficult  
6 issues that have faced our veterans. Across the country,  
7 people's confidence in the care we provide to veterans has  
8 been understandably shaken. As has been mentioned time and  
9 time again in this committee, veterans deserve more from us.  
10 They expect more from us. They expect us to uphold our end  
11 of the bargain. The complications with the construction  
12 project in Denver, for example, have raised serious  
13 questions about our ability to provide veterans the high  
14 quality care that they have earned.

15           Partnerships across the aisle and across the branches  
16 of government have been important to overcoming the issues  
17 facing our veterans in the past. By bringing more  
18 partnerships about between veterans, their communities, and  
19 the federal government, we have an opportunity to uphold our  
20 end of the bargain for our servicemembers. We can do this,  
21 and we can do this by tapping into the strength in our local  
22 communities. Through community partnerships, our family  
23 members, neighbors, and businesses can give back to those  
24 who have given so much for them.

25           The VA has identified communities in Nebraska and

1 across the country that are ready, willing, and able to  
2 contribute to improving our veterans' access to quality  
3 care. These communities do not want to wait for Washington.  
4 They are ready to restore the veterans' health care system  
5 and they want to take an active role in restoring our  
6 national confidence in that system.

7         So, my bill, S. 2958, creates a pathway for local  
8 communities to do just that. Local leaders have expertise  
9 in aligning both design and medical teams in the  
10 constructing of medical facilities. Through the  
11 partnerships created in this bill, local leaders would have  
12 the opportunity to manage construction projects from start  
13 to finish. By allowing the private sector experts to lead  
14 these projects, the VA can avoid issues that have haunted  
15 previous projects.

16         Our veterans and the American people deserve  
17 transparency. They deserve projects that are on time. They  
18 deserve projects that are on budget.

19         The VA has already appropriated millions of dollars to  
20 construction projects that are not yet finished. This  
21 legislation would allow communities to contribute the  
22 remaining finances to complete these projects. The VA's  
23 financial obligation for the construction of these medical  
24 facilities would be limited to the previous appropriation  
25 and not one dollar more. This legislation can serve as a

1 model for expediting the VA's efforts to coordinate its  
2 infrastructure with the needs of our veteran population.

3 Communities across the country are willing to help take  
4 up this national responsibility of caring for our veterans.  
5 It is our responsibility, I believe, to fully explore ways  
6 that empower them to do so, and I believe that my  
7 legislation would do that.

8 Thank you, Mr. Chairman.

9 Chairman Isakson. Having dealt with the Denver  
10 hospital debacle and gone through that, I am glad that there  
11 are thoughtful members of the Senate looking at solutions to  
12 our future problems so we do not ever have to replicate  
13 those again. Thank you very much for your thoughtful  
14 proposal.

15 Senator Fischer. Thank you, sir.

16 Chairman Isakson. Senator Franken.

1                   STATEMENT OF HONORABLE AL FRANKEN, A UNITED STATES  
2                   SENATOR FROM THE STATE OF MINNESOTA

3           Senator Franken. Thank you, Chairman Isakson, and  
4 thank you, Senator Murray, for the opportunity to speak on  
5 behalf of the Atomic Veterans Health Care Parity Act, which  
6 I introduced with Senator Tillis. Thank you also to Senator  
7 Coons and Senator Wyden for cosponsoring the bill and the  
8 others testifying on behalf of this important legislation.

9           Like the members of this committee, one of my highest  
10 priorities as a Senator is making sure that our veterans and  
11 their families get every benefit that they deserve. We need  
12 to help our veterans find a home and a job, recover from  
13 their physical and psychological wounds, and take full  
14 advantage of the benefits that they were promised when they  
15 enlisted, benefits they have earned with their service and  
16 their sacrifices as well as the sacrifices of their  
17 families.

18           The veterans of the cleanup of the Enewetak Atoll have  
19 not gotten the benefits that they earned. During the 1940s  
20 and the 1950s, the United States conducted more than 40  
21 nuclear tests on the Enewetak Atoll in the Marshall Islands.  
22 Thousands of members of the United States Armed Forces  
23 participated in the clean-up of Enewetak between 1977 and  
24 1980, so that was years later. Servicemembers removed  
25 radioactive fallout, soil, and debris, including significant

1 amounts of plutonium, and dumped it into a crater on Runit  
2 on that island, Runit Island, that was covered with--then it  
3 was covered with 18 inches of concrete.

4 Now, we dropped so much nuclear material on Enewetak  
5 that it was as if we had dropped 1.6 Hiroshima bombs every  
6 day for 12 years. That is what we are talking about. These  
7 servicemembers were typically without any form of protective  
8 gear. They wore Defense Department-issued T-shirts, shorts,  
9 and combat boots to remove highly contaminated material.

10 Today, half of Enewetak, of the atoll, is still  
11 considered unsuitable for human habitation. Thirty-six  
12 years after the clean-up was completed, residents still must  
13 be tested for radiation levels, especially those that work  
14 closely with the soil, just like our veterans did.

15 Now, our servicemembers who were actually part of the  
16 nuclear tests, the ones that were part of the nuclear tests  
17 during their active service, do receive extra benefits as  
18 atomic veterans to deal with illnesses that are assumed to  
19 be related to radiation exposure. However, servicemembers  
20 that were part of the clean-up do not receive these extra  
21 benefits, despite their exposure.

22 Many of the veterans who served on Enewetak Atoll have  
23 already passed away. Many more of the clean-up veterans  
24 suffer from various types of cancer, respiratory and heart  
25 diseases, at early ages and at high rates. There are

1 reports that their children may also be suffering from  
2 illnesses caused by having a parent who was exposed to  
3 radiation.

4 Clean-up veterans are forced to pay out of pocket for  
5 their medical costs because the VA does not recognize them  
6 as atomic veterans. Despite being put in harm's way, these  
7 veterans that cleaned up after the nuclear tests are not  
8 being adequately compensated by their government.

9 In order to right this wrong, Senator Tillis and I  
10 introduced the Atomic Veterans Health Care Parity Act. This  
11 bipartisan, bicameral legislation assures that the veterans  
12 who participated in the clean-up of the Enewetak Atoll  
13 receive the benefits they deserve, benefits that their  
14 service should have entitled to them years ago.

15 Thank you, Mr. Chairman, thank you both Senators Murray  
16 and Hirono, for the opportunity to testify on this important  
17 piece of legislation. I look forward to working with you  
18 and the rest of the committee to move this very important  
19 legislation along. Thank you very much.

20 Chairman Isakson. Thank you very much, Senator  
21 Franken.

22 Senator Cotton.

1                   STATEMENT OF HONORABLE TOM COTTON, A UNITED STATES  
2                   SENATOR FROM THE STATE OF ARKANSAS

3           Senator Cotton. Thank you, Mr. Chair. I would like to  
4 thank the Ranking Member, Senator Blumenthal. Thank you,  
5 Senator Murray and Senator Hirono, for the chance to appear  
6 before you today. My testimony did not require a grant of  
7 immunity.

8           [Laughter.]

9           Senator Cotton. I am here today to discuss my  
10 legislation, the Charles Duncan Buried with Honor Act, which  
11 would expand the cemetery burial options offered by the VA  
12 to financially insolvent veterans.

13           I want to begin by telling a story about the bill's  
14 namesake, Mr. Charles Duncan, a Navy veteran from Little  
15 Rock, Arkansas. Mr. Duncan died last year at the age of 66.  
16 He was financially insolvent and his family could not afford  
17 his funeral costs. Thanks to the passed efforts of this  
18 committee in passing the Dignified Burial and Other Veterans  
19 Benefits Improvement Act of 2012, Mr. Duncan was eligible  
20 for VA assistance with his burial costs. Unfortunately,  
21 because of a small gap in the law, Mr. Duncan and other  
22 veterans like him can only receive this assistance if they  
23 are buried in a national cemetery.

24           In Arkansas, as I suspect in other states, this rule  
25 can necessitate hours of travel to reach the closest

1 cemetery. For instance, we have three national cemeteries,  
2 one in Little Rock, one in Fort Smith, and one in  
3 Fayetteville. But the national cemetery in Little Rock is  
4 full, leaving Fort Smith and Fayetteville in the west as the  
5 only options.

6 In Mr. Duncan's case, his adult daughter has no means  
7 of transportation and was unable to make the drive to Fort  
8 Smith from Little Rock and missed her father's funeral.  
9 Since then, she has been unable to visit her father's grave.  
10 Would it not make more sense to allow these veterans the  
11 option of a state veterans' cemetery if that cemetery is  
12 closer to the veteran's home?

13 In Arkansas, we have two state cemeteries, one in  
14 Little Rock and one in east Arkansas at Birdeye. Both of  
15 them have plenty of room for more veterans, and as you can  
16 see, a large part of my state is closer to Little Rock and  
17 Birdeye than it is to either Fort Smith or Fayetteville.

18 Mr. Duncan could have been laid to rest in the Little  
19 Rock state cemetery, saving taxpayer money and allowing  
20 friends and families to attend the service or visit the  
21 grave site. This is a small but important change.

22 Since Senator Murray's bill took effect, the VA has  
23 reimbursed claims totaling almost \$240,000 for the interment  
24 of 203 veterans. The costs associated with this legislation  
25 as estimated at only \$2 million over ten years. I would

1 suggest the cost is minimal when you consider the sacrifices  
2 our veterans have made and the solace this could provide  
3 their loved ones.

4         Additionally, this change would not add additional  
5 stress to the VA or distracting their other efforts. It is  
6 a simple, straightforward change that the VA Veterans'  
7 Cemeteries Grant Program is well equipped to handle, and I  
8 would note that the VA submitted a no benefit cost or  
9 savings legislative proposal to make this type of change in  
10 its fiscal year 2017 budget submission, indicating its  
11 willingness to implement this legislation.

12         Finally, in the interest of moving the bill forward, it  
13 retains the "no next of kin" provision in current law, which  
14 maintains the VA's commitment to our Homeless Veterans  
15 Initiative. This provision holds no cost, but also requires  
16 indigent veterans to disavow loved ones to be eligible for  
17 burial benefits. I hope there is a way to resolve that  
18 matter at a later date, and I look forward to working with  
19 the committee and the VA on it.

20         Charles Duncan was not the first veteran in this  
21 position, but we can help ensure that he is the last.

22         Thank you for your time and thank you for your  
23 continued support for our veterans.

24         Chairman Isakson. Thank you very much, Senator Cotton,  
25 for your thoughtful recommendation and presentation.

1 Senator McCaskill.

1                   STATEMENT OF HONORABLE CLAIRE McCASKILL, A UNITED  
2                   STATES SENATOR FROM THE STATE OF MISSOURI

3           Senator McCaskill. Thank you, Mr. Chairman, and thank  
4 you to Senator Murray and Senator Hirono for being here  
5 today.

6           I would like to address a very important topic with you  
7 today. I am here to speak in support of the Arla Harrell  
8 Act, legislation which I introduced to address a very  
9 serious injustice that has been perpetrated against veterans  
10 that were purposely exposed through our own military to  
11 chemical agents as part of U.S. Government experiments  
12 during World War II.

13           The United States Government conducted classified  
14 chemical tests of mustard agents, including mustard gas and  
15 lewisite, on thousands of its own servicemembers. Mustard  
16 agents can cause painful blisters on exposed skin as well as  
17 damage to the eyes and respiratory system, leading to a  
18 lifetime of adverse health impacts. In total, 60,000  
19 servicemembers are estimated to have participated in the  
20 tests, with about 4,000 of them facing the most extreme  
21 forms of full body exposure.

22           One of these servicemembers is a constituent of mine,  
23 Arla Harrell, who was twice exposed to mustard gas while  
24 stationed for basic training at Camp Crowder in Neosho,  
25 Missouri, in 1945. Arla and his fellow subjects were told

1 they would be helping the military, quote, "test summer  
2 clothing," end of quote, in exchange for additional leave.  
3 It was not until they arrived at the testing site that they  
4 were told they would be exposed to mustard agents.

5 Servicemembers who participated in chamber tests were  
6 repeatedly exposed to mustard agents until they developed  
7 moderate to intense erythema, a painful skin disorder.

8         The servicemembers were threatened with court-martial  
9 if they did not continue with the testing. To make matters  
10 worse, they were sworn to an oath of secrecy, leaving them  
11 unable to share what had happened to them with anyone,  
12 including their own health care providers.

13         Following his exposure, Arla was hospitalized twice,  
14 first at Camp Crowder while still in basic training, and  
15 again at the 98th General Hospital in Munich, Germany. Due  
16 to the classified nature of the testing and the oath of  
17 secrecy, this meant decades of suffering and frustration for  
18 the impacted veterans as they sought medical care from  
19 doctors who were in the dark about their exposure.

20         Seventy years after the experiments took place, the  
21 government has yet to appropriately assist and compensate  
22 many of these veterans. The VA finally established a  
23 process 25 years ago to compensate these veterans, but it  
24 puts the burden on the veterans to prove that they were  
25 exposed to mustard gas in order to make a successful claim.

1 These tests were classified. The young servicemembers were  
2 held to an oath of secrecy for more than 40 years. Records  
3 are incomplete. And for some veterans, a massive 1973 fire  
4 destroyed their entire service files. The VA established a  
5 burden of proof that is insurmountable to many impacted  
6 veterans.

7 The VA has rejected approximately 90 percent of the  
8 applicants for VA benefits connected to exposure of mustard  
9 gas or lewisite. Of the thousands of veterans who were  
10 exposed during World War II during this testing, only 40 are  
11 receiving benefits today.

12 Arla Harrell himself has been denied benefits multiple  
13 times, most recently just this month. The VA says it cannot  
14 confirm that mustard gas testing occurred at Camp Crowder  
15 and, therefore, cannot approve his benefits. This comes  
16 despite the clear statements from Arla regarding his  
17 treatment and the health effects he has suffered, and it  
18 comes despite the fact that the Army recovered mustard gas  
19 in vials in Camp Crowder more than 30 years ago and an Army  
20 Corps of Engineers report identifies gas chambers at Camp  
21 Crowder.

22 I have put a document up on the easel that was made by  
23 the Army Corps of Engineers. They went to tear down Camp  
24 Crowder and someone operating the bulldozer had a smoke of  
25 something come up from the air and began coughing and they

1 recovered both the vials of mustard gas and they found the  
2 actual gas chambers on the property.

3         The Arla Harrell Act would improve the VA's  
4 consideration of mustard agent exposure claims and address  
5 this terrible situation. Simply, the bill would flip the  
6 burden of proof for veterans who have already been denied  
7 these benefits. And keep in mind, it only flips the benefit  
8 of who has to prove this for the people who have already  
9 applied, and there are less than 400 of these folks still  
10 alive. So, for 400 individuals who have already applied, it  
11 would flip the burden of proof, but it would not open up  
12 claims for anyone else who has not previously applied. So,  
13 it is a very limited application.

14         It would require the VA to reconsider all previously  
15 rejected claims for benefits under this program with the  
16 presumption that the veteran was exposed to mustard gas.  
17 Rather than require the veteran to prove exposure of a  
18 program classified for decades and decades and, frankly,  
19 only really known about within the bowels of the Department  
20 of Defense for many years, the bill would require the VA to  
21 prove that he was not. This is not a large universe of  
22 individuals and all of them have previously made a claim for  
23 benefits.

24         Additionally, the bill would require the VA and DOD to  
25 establish a new policy for the processing of future mustard

1 agent benefit claims so that other veterans do not go  
2 through what Arla Harrell has gone through.

3 Arla and his wife, Betty, and their five children have  
4 fought for compensation for a service-related illness for  
5 almost 25 years. They just want somebody to believe them.

6 After more than 70 years, Arla and veterans like him  
7 deserve recognition for their selfless service. I urge the  
8 committee to support this legislation so we can keep our  
9 commitment and ensure that all veterans receive the respect,  
10 care, and benefits they have earned.

11 And, thank you, Mr. Chairman and Senators for being  
12 here, and I hope that this is something that would not be  
13 controversial and that we could move fairly quickly through  
14 the process.

15 Chairman Isakson. Well, thank you for your testimony,  
16 and I enjoyed our conversations during the markup on NDAA on  
17 this very subject, and we will continue to do the same thing  
18 here.

19 Senator McCaskill. Thank you so much.

20 Chairman Isakson. Thank you, Senator McCaskill.

21 We have one other member of the Senate, Senator  
22 Merkley, who has asked to testify, but he has not shown up  
23 yet, and I do not know if we have a message that he is  
24 coming, so in his absence, we will go ahead and go to panel  
25 number one.

1           In the absence of Senator Blumenthal, we have a much  
2 more attractive Senator as Ranking Member, Senator Murray,  
3 and I recognize Senator Murray first.

4                           OPENING STATEMENT OF SENATOR MURRAY

5           Senator Murray. Well, Mr. Chairman, thank you. I want  
6 to thank you for holding this hearing on some really  
7 important pieces of legislation.

8           I wanted to say, it is not on the agenda today, but I  
9 do want to take a moment to talk about my SCRA Enhancement  
10 and Improvement Act of 2016, which I believe is really  
11 important to upholding our country's commitment to veteran  
12 families, and part of that is making sure servicemembers  
13 have important legal protections so they can focus on their  
14 mission, and those protections recognize that while they are  
15 deployed or away from home, servicemembers often do not have  
16 the resources to respond to a range of financial and legal  
17 issues.

18           And despite these protections, I am disappointed to  
19 learn that servicemembers continue today to be subjected to  
20 predatory practices and unfair treatment on their student  
21 loans, on their mortgages, and on their credit cards, and it  
22 is so long, and it is why I have introduced the SCRA  
23 Enhancement and Improvement Act, which would put an end to  
24 many of these predatory practices and give servicemembers  
25 and our agencies the tools they need to fight back when

1 banks and student loan servicers deny servicemembers their  
2 rights.

3 I will put my statement into the record which says what  
4 this does, Mr. Chairman. But, it is about student loans,  
5 but it goes beyond that. I was concerned when, several  
6 years ago, some of our nation's largest mortgage servicers  
7 improperly overcharged and foreclosed upon thousands of  
8 deployed servicemembers in violation of those current laws.  
9 So, our legislation deals with that, too. I just do not  
10 believe we should let our servicemembers be taken advantage  
11 of.

12 Many of the provisions in our legislation have been  
13 considered by this committee over the past years. Much of  
14 it is derived from requests by the Department of Justice for  
15 the tools it needs to protect our servicemembers.

16 So, Mr. Chairman, it is not on the agenda today, but I  
17 really hope that our committee can put it on a future agenda  
18 and deal with this important issue.

19 [The prepared statement of Senator Murray follows:]

20 / COMMITTEE INSERT

1 Chairman Isakson. For the record, the distinguished  
2 lady from Washington asked me to try and get it on the  
3 agenda for today. We were so, first of all, full, that was  
4 impossible. Second of all, I talked about a jurisdictional  
5 issue with Senator Alexander with regard to student loans,  
6 and I will talk to you about that after the meeting, but we  
7 will pursue it for you.

8 Senator Murray. Okay. Thank you.

9 Chairman Isakson. Thank you for being here today.

10 With that said, our first panel, Dr. David McLenachen,  
11 Deputy Under Secretary for Disability Assistance Veterans'  
12 Benefits Administration, United States Department of  
13 Veterans Affairs, accompanied by Dr. Maureen McCarthy,  
14 Assistant Deputy Under Secretary for Health for Patient Care  
15 Services, Veterans Health Administration.

16 Mr. McLenachen, you are recognized.

1           STATEMENT OF DAVID McLENACHEN, DEPUTY UNDER  
2           SECRETARY FOR DISABILITY ASSISTANCE, VETERANS  
3           BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF  
4           VETERANS AFFAIRS; ACCOMPANIED BY MAUREEN McCARTHY,  
5           M.D., ASSISTANT DEPUTY UNDER SECRETARY FOR HEALTH  
6           FOR PATIENT CARE SERVICES, VETERANS HEALTH  
7           ADMINISTRATION

8           Mr. McLenachen. Mr. Chairman and members of the  
9           committee, thank you for the opportunity to present the  
10          views of the Department of Veterans Affairs on several bills  
11          that are pending before the committee.

12          As you said, joining me today is Dr. Maureen McCarthy,  
13          Assistant Deputy Under Secretary for Health for Patient Care  
14          at VHA.

15          Because there are so many bills under consideration  
16          during this hearing, I am unable to address each one  
17          individually, Mr. Chairman. VA has indicated support for or  
18          concern with these bills in my accompanying written  
19          testimony.

20          We provided cost projections for these bills as we can  
21          and we will provide projections for the remainder as we  
22          compile the necessary data. We will do that as soon as we  
23          possibly can.

24          I would like to highlight a few of the bills that VA  
25          strongly supports that are on the agenda today. S. 2316,

1 which affects a provision in current law that prevents VA  
2 from adequately compensating our most vulnerable  
3 beneficiaries when the fiduciary that serves them misuses  
4 their benefits. It would also allow VA to more easily and  
5 thoroughly investigate financial records in cases where a  
6 fiduciary misuse is suspected.

7 S. 3021 would provide veterans with more flexibility in  
8 using their Post-9/11 G.I. Bill benefits to pursue  
9 independent study in a program at an institution that is not  
10 an institution of higher learning. VA recognizes the  
11 importance of career and technical education courses and the  
12 growth of online and other forms of modern non-degree  
13 training and supports expanding educational assistance to  
14 cover these programs.

15 S. 3055 would make permanent a successful VHA dental  
16 insurance pilot program. VA welcomes the opportunity to  
17 continue offering dental insurance to interested veterans  
18 and hopes to see the program grow.

19 S. 3076, the Charles Duncan Buried with Honor Act,  
20 which you just heard about, would allow VA to provide  
21 caskets and urns to indigent veterans with no next of kin  
22 who are laid to rest in state and tribal cemeteries. VA  
23 strongly supports this cost neutral expansion of benefits,  
24 but suggests clarifying that it would apply to veterans'  
25 cemeteries of a state or Indian tribe.

1           S. 603 would expand travel benefits for rural veterans.  
2 VA strongly supports Sections 2 and 4, but would like to  
3 work with the committee regarding Section 3.

4           We would also like to work with the committee to make  
5 some clarifying edits to S. 2210, the Veteran PEER Act, and  
6 would like to discuss with the committee S. 2279, the  
7 Veterans Health Care Staffing Improvement Act.

8           VA strongly supports S. 2958, which would enable the  
9 Secretary to establish a pilot program to accept donations  
10 of real property that address needs identified through VA's  
11 long-range capital planning process. VA welcomes strategic  
12 partnerships such as the partnership proposed in this  
13 legislation. We look forward to working with the committee  
14 and the bill's sponsors to address VA's technical concerns  
15 regarding the bill.

16           VA has more difficulty supporting some of the other  
17 bills under consideration today. We fully support  
18 delivering benefits to veterans and survivors as quickly as  
19 possible, but we cannot support S. 3023, the Arla Harrell  
20 Act, which would create a presumption of full-body mustard  
21 gas exposure and resulting service connection for every  
22 World War II veteran who files a claim for related  
23 disability benefits. Nonetheless, these claims remain a  
24 high priority for VA and we will continue to fully and  
25 sympathetically develop and adjudicate every mustard gas

1 claim that we receive.

2 Delivering benefits to veterans exposed to radiation is  
3 also a high priority for VA, but we cannot support S. 2791,  
4 the Atomic Veterans Health Care Parity Act. Historical  
5 records and scientific evidence available to VA indicate  
6 that radiation exposure among servicemembers participating  
7 in the clean-up of the atoll were well below safe thresholds  
8 and unlikely to lead to any radiogenic disease. While VA is  
9 extremely grateful for every veteran's service and  
10 sacrifice, we believe that the paternalistic claim  
11 principles codified in current law and VA's mustard gas and  
12 radiation claim regulations already provide for fair and  
13 accurate resolution of these complicated claims.

14 Finally, like several of our Veterans Service  
15 Organization partners, we cannot support S. 3081, the  
16 WINGMAN Act, which would give Congressional staff  
17 unprecedented access to veterans' personal records, even in  
18 the absence of those veterans' consent. We have outlined  
19 additional concerns with the WINGMAN Act and other bills in  
20 my written testimony.

21 Mr. Chairman, this concludes my statement. We are  
22 happy to entertain any questions that you or other members  
23 of the committee may have. Thank you.

24 [The prepared statement of Mr. McLenachen follows:]

1 Chairman Isakson. Well, thank you very much for your  
2 testimony.

3 I will start off with the questions. We will go with a  
4 round of five minutes for questions for each member.

5 Let us go back to the WINGMAN Act and your last  
6 statement. Would you walk us through how the information  
7 may be obtained by caseworkers now and how long it generally  
8 takes to get that information.

9 Mr. McLenachen. Mr. Chairman, I do not have  
10 information on how long it takes. I can tell you that each  
11 of our regional offices has Congressional liaison, that  
12 their specific job is to work with local Congressional  
13 caseworkers to provide that information as quickly as  
14 possible and we are definitely willing to work with the  
15 committee and other members of Congress to speed that  
16 process up.

17 What happens now is VA receives a release from the  
18 claimant, generally through the Congressional staff, that  
19 authorizes us to disclose information to the caseworker, and  
20 we try to do that as quickly and as efficiently as we can,  
21 as well as to provide other information that the caseworker  
22 may need regarding what do these records mean.

23 I will tell you that although we have concerns about,  
24 on behalf of veterans, privacy concerns, we are working hard  
25 right now to do something that may help in this area, and

1 that is exposing the e-folder in our VBMS system to veterans  
2 and also to third parties that they may authorize for us to  
3 disclose that information to. So, that is a goal that we  
4 have that we are actively working on now, where that  
5 information would be available electronically to veterans  
6 and the individuals that they authorize to have access.

7 Chairman Isakson. Does not every inquiry on a benefit  
8 or appeal on a disability claim or any other benefit from  
9 the VA require a privacy release from the veteran?

10 Mr. McLenachen. Yes, unless it is the veteran  
11 themselves asking for it. They have a right to it under  
12 the--

13 Chairman Isakson. I understand that. But in terms of  
14 this deals with Congressional staff--

15 Mr. McLenachen. Right.

16 Chairman Isakson. --and every one of them, the first  
17 thing we are instructed to do, or we instruct our staff to  
18 do, is to get a privacy release before anything else  
19 happens, and that is true nationwide, is that not correct?

20 Mr. McLenachen. That is true with an exception of  
21 yourself, I believe, on behalf of the committee asking for  
22 information. I believe the committee has that authority to  
23 ask us for information.

24 Chairman Isakson. And you said your objection to this  
25 bill was what?

1           Mr. McLenachen. Well, this bill would essentially  
2 authorize all Congressional personnel to have access to our  
3 systems, regardless of the consent or authorization of the  
4 claimant. So, we think the veteran's privacy right is  
5 paramount to everything and they should have the ability to  
6 determine who they are going to--who VA should disclose  
7 their records to.

8           Chairman Isakson. So, you want to maintain the privacy  
9 release signed by the veteran. But once you get the privacy  
10 release, how difficult is it for staff to get the  
11 information they need to assist the veteran?

12          Mr. McLenachen. As long as we have that authorization,  
13 it should not be difficult

14          Chairman Isakson. Are you aware that Senator Rounds  
15 and Senator Manchin will be conducting a roundtable, if you  
16 will, for lack of a better term, here at the committee  
17 during the break over the next two weeks to talk about this  
18 very issue?

19          Mr. McLenachen. I am not aware of that.

20          Chairman Isakson. Many of--a number of offices, and I  
21 have received as Chairman a number of complaints, if you  
22 will, for the lack of speed in responding to Congressional  
23 inquiries from the VA, and I think part of the genesis of  
24 this particular legislation is some of the frustration with  
25 the response time it takes for many caseworkers to get

1 veterans' information. So, I hope you will participate with  
2 whomever the Secretary decides to come and testify at that  
3 particular hearing.

4 Mr. McLenachen. I would be happy to. I would like to  
5 say, Mr. Chairman, I am not downplaying the delay, and  
6 specifically in responding to veterans' own requests for  
7 Privacy Act information, their own records, and we are  
8 working hard to address that particular problem. It does  
9 exist and we are working hard to address it. Veterans  
10 should be able to go online and see their own record.

11 Chairman Isakson. One other question. You said that  
12 you were opposed to Senator Cotton's proposal with regard to  
13 burial of indigent veterans?

14 Mr. McLenachen. No. We strongly support it.

15 Chairman Isakson. You strongly support it?

16 Mr. McLenachen. Yes, sir.

17 Chairman Isakson. I am sorry. I misheard that.

18 Senator Blumenthal.

19 Senator Blumenthal. Thank you very much, Mr. Chairman,  
20 and thanks for having this hearing on a number of separate  
21 bills. If I count correctly, we have 18 bills on our agenda  
22 and they are extremely important to advance the interests of  
23 our veterans.

24 One of them is the Veteran PEER Act, which complements  
25 the VA's ongoing efforts that I have strongly supported.

1 The measure would expand the use of peer support specialists  
2 beyond traditional mental health sites of care. The VA has  
3 indicated support for the measure, quote, "subject to the  
4 availability of additional funding." Dr. McCarthy, can you  
5 tell us what the VA currently spends on the peer support  
6 program.

7 Dr. McCarthy. Well, let me start by saying we  
8 currently have a peer support program in mental health and  
9 we have a pilot going on for encouraging individuals that  
10 are receiving mental health care right in primary care. So,  
11 we have seven sites that are up now, six more that will be  
12 starting in July, and nine more in January, and potentially  
13 four additional, where we would have peer support to  
14 encourage the veterans in the primary care clinics to  
15 receive mental health services that are embedded.

16 As for the current costs, I am not sure I have them  
17 handy at this point for what we are spending right now on  
18 that particular pilot, but that would bring us to a total of  
19 26 sites that we currently have ongoing, and the bill is--

20 Senator Blumenthal. The bill would bring to 26.

21 Dr. McCarthy. No. We already have twenty--

22 Senator Blumenthal. Okay. Tell me--

23 Dr. McCarthy. We have 13--

24 Senator Blumenthal. Since we are short on time, let me  
25 just ask very directly.

1 Dr. McCarthy. Sure.

2 Senator Blumenthal. How much more spending would it  
3 cost to implement the Veteran PEER Act?

4 Dr. McCarthy. So, the total for three years is  
5 projected to be \$2.8 million.

6 Senator Blumenthal. Two-point-eight million with an  
7 "M."

8 Dr. McCarthy. Million with an "M."

9 Senator Blumenthal. Okay. Let me ask you, Mr.  
10 McLenachen, I was proud to introduce the FRAUD Act with my  
11 colleagues, Senators Brown and Moran, to address the misuse--  
12 -I think it is rampant--of VA benefits. That misuse is not  
13 by the veterans, it is by fiduciaries that are appointed to  
14 safeguard the finances of our veterans. Those fiduciaries  
15 all too often commit fraud. The misuse of these benefits is  
16 rampant.

17 In your testimony, you state that during the calendar  
18 year 2015, the VA reissued more than \$2 million in benefits  
19 to veterans who have experienced the misuse of funds at the  
20 hands of fiduciaries, and that \$2 million covers only the  
21 ones you know about and who have been processed, so there  
22 may be many, many more, and they constitute only ten VA  
23 beneficiaries, as I understand it. That million dollars  
24 covers only those ten.

25 This legislation is fruitful to ensure that the VA can

1 reissue benefits in all cases of fiduciary misuse, and I  
2 think we need to do more to protect our most vulnerable  
3 veterans. They can be at the mercy of family, caregivers,  
4 all kinds of potential abuse.

5         Would you please explain the process that is used to  
6 appoint a fiduciary for a veteran receiving these benefits,  
7 and how do you evaluate whether a fiduciary is going to be  
8 equipped in terms of expertise, but also trustworthy, to  
9 administer those benefits.

10         Mr. McLenachen. I would be happy to. Back in about  
11 2004, Congress amended the law to require VA to use a  
12 specific investigation method when we appoint a fiduciary,  
13 with the standard being that we have to make a best interest  
14 determination on behalf of the beneficiary. Actually, the  
15 law requires us to do a number of things, such as a  
16 background check, a credit check, check character  
17 references, and so the statute itself establishes that  
18 standard for us.

19         In our policy, we have determined that the first thing  
20 that we will look at for appointing a fiduciary is a family  
21 member. We are transitioning the program from one where, in  
22 the past, veterans, a lot of their benefits were used to pay  
23 fees to professional fiduciaries. We are shifting the  
24 program towards more family, friend, caregiver-type oriented  
25 program and we have been very successful at that. The

1 program is growing extremely fast.

2 But our really important role that we play is oversight  
3 to detect misuse, and although I regret that there is any  
4 misuse in our program, the fact that we are doing sufficient  
5 oversight to detect misuse and provide reissuance of  
6 benefits according to the authority that we have now in one  
7 way is a sign that we are doing good oversight.

8 Yes, I hope that we can do more to diminish that by  
9 appointing appropriate people to provide these services for  
10 these veterans and survivors, but it does happen. I  
11 respectfully disagree with you that it is rampant in our  
12 program. You are right, we do not know what is happening  
13 that we have not found, but we make every effort to find the  
14 misuse that is occurring. We do audits. We do follow-up  
15 field examinations. We do on-site visits of fiduciaries.  
16 And this bill, in particular, will expand our authority for  
17 doing oversight because it would allow us to have access to  
18 financial records that we currently do not have.

19 So that, in addition to the provision to reissue  
20 benefits, would strengthen our oversight. It is very  
21 important legislation.

22 Senator Blumenthal. Thank you. Thank you for your  
23 response. My time has expired, but I hope to follow up in  
24 written questions. Thank you.

25 Mr. McLenachen. Thank you.

1 Chairman Isakson. Senator Tillis.

2 Senator Tillis. Thank you, Mr. Chair. Thank you all  
3 for being here.

4 I guess before I get started on questions about two  
5 bills, I do think that the Department's position on a bill  
6 that is sponsored by my senior Senator, the Department of  
7 Veterans Affairs Dental Insurance Reauthorization Act, you  
8 support?

9 [Witness nodding.]

10 Senator Tillis. Good. Thank you, on Senator Burr's  
11 behalf.

12 I want to go back first to the Veterans Health Care  
13 Staffing Improvement Act. I think that there is a qualified  
14 support there. And before I ask you all to go through the  
15 areas that you have as concerns, there are a few pieces of  
16 the bill that I feel like we need to work on. One of them  
17 relates to--I know that the Department is making a decision,  
18 or has made a decision, policy decision, to extend or make  
19 some staffing decisions, I know, with respect to nurse  
20 anesthetists, for example.

21 One thing that I think we have to be mindful of is that  
22 in states that have clear scope of practice laws, I hope  
23 that the Department is looking at instances where you have a  
24 bona fide shortage of the most qualified people before you  
25 would move that route, because I think that could create a

1 slippery scope to where it is more of a lower-cost  
2 alternative rather than most qualified alternative. So, I  
3 recognize there are places in the country where you have the  
4 deficiencies and you may have to do them, but could you give  
5 me a reaction to that?

6 Dr. McCarthy. Absolutely. We are--as you noted, we  
7 have the final rule out for comment, and when we reached  
8 10,000 comments, it was like nothing we had ever received  
9 before, and we are now at 48,000 comments. The comment  
10 period extends until July 28.

11 I think the Certified Registered Nurse Anesthetist part  
12 of it is the one that has brought a lot of controversy. In  
13 VA, nurse anesthetists work closely with anesthesiologists  
14 and our model of care is team-based care. Teams define a  
15 lot of what we do. If you look across our system, we do  
16 have access challenges in primary care, in mental health,  
17 specialty care, and so forth, but we have not identified  
18 significant shortages of anesthesiologists, for instance.  
19 And so at this point, the proposed rulemaking is all  
20 inclusive with the idea that we would not necessarily  
21 implement all the changes in the rulemaking until it is  
22 clear what is needed. So, we would have flexibility.

23 Senator Tillis. Well, thank you, because, again, it  
24 just speaks to a capability and training that if it is  
25 available, we want in the hospital setting to make sure the

1 veterans are getting the best possible care. That is taking  
2 nothing away from the nurse anesthetists. It is just making  
3 certain that this does not just change a model that is based  
4 more on business factors than medical outcomes. So, I  
5 appreciate that.

6 Can you tell me other aspects, areas of concern, that  
7 you have? I do not think you necessarily had a concern with  
8 that aspect of it, but other areas where you are having  
9 problems with the Staffing Improvement Act.

10 Dr. McCarthy. So, there were a couple of concerns.  
11 One was the desire to have the separate credentialing  
12 program. We do have a national program we call VetPro,  
13 which is actually quite functional and allows credentialing  
14 to be across our system. So, we do not need to really  
15 change that.

16 We are excited about what we are doing with DOD and  
17 helping people come into our system now, all the  
18 possibilities for how we can partner and have folks  
19 supported with training options and make the transition into  
20 VA easier. It is a win-win for those veterans who are being  
21 discharged and for us.

22 So, the main concern, really, for us is to let the  
23 rulemaking comments happen. That is the main section that  
24 we are concerned about.

25 Senator Tillis. All right. In my limited time, I want

1 to get to the other one, which has to do with the Atomic  
2 Veterans Health Care Parity Act, and in some ways--there is  
3 no way we are going to get this done in 48 seconds, but I  
4 have been in the battles and, obviously, I think I have  
5 established good relationships within the VA. I am trying  
6 to do everything I can to support you all in efforts that I  
7 think are right minded.

8 But, I almost feel like we are at a point where we were  
9 with the Camp Lejeune toxic substances, where people were  
10 saying there is not quite enough data for us to give the  
11 benefit of the doubt to the veteran, and I am wondering  
12 whether or not the full complement of medical research,  
13 people that are looking at this, share the same position  
14 that the VA does right now, which is there is no presumption  
15 that their exposure--I am not a doctor, not a lawyer, but if  
16 we put these people on an island in T-shirts in close  
17 proximity to a mushroom cloud which is the aftermath of an  
18 atomic bomb, common sense says there may have been some  
19 exposure there that could have caused a condition.

20 I am not going to ask you to respond to it because I am  
21 out of time, but I would like to maybe find some time to  
22 meet, as we did, and we got to a pretty good place with the  
23 Camp Lejeune toxic substances, to show me how that data  
24 would lead you to that position.

25 Thank you, Mr. Chair.

1 Chairman Isakson. Thank you, Senator Tillis.

2 For a clarification for my purposes, with regard to the  
3 nurse anesthetists, you had a record response in terms of  
4 public input when you published that.

5 Dr. McCarthy. Mm-hmm.

6 Chairman Isakson. Now, my understanding is that you  
7 have determined that you have enough licensed and trained  
8 anesthesiologists to meet the demands of the Veterans  
9 Administration, so you are not going to be implementing at  
10 the present time a nurse anesthetist program to replace any  
11 anesthesiologists anywhere, is that correct?

12 Dr. McCarthy. That is where we are right now, sir.  
13 Dr. Shulkin has talked about the fact that it took six years  
14 for us to bring it to the final rule at this point and a  
15 future Under Secretary, he would not want them to have to go  
16 through another six years of waiting to bring that  
17 particular rule. He feels like having the rule published  
18 would be useful to us should we need to implement it in the  
19 future. But, it is really going to be facility-specific,  
20 what are the needs of that individual facility and the  
21 veterans that come there in terms of who are the right  
22 people to be prescribing or treating the veterans with  
23 anesthesia.

24 Chairman Isakson. Given that the rule would allow at a  
25 future date a Secretary to determine to use some nurse

1 anesthetists, what would be the requirement to let this  
2 committee know about that before they make that decision?  
3 Is there anything in the rulemaking that determines that?

4 Dr. McCarthy. I do not know that that is in the  
5 rulemaking, but in the spirit of cooperation, I think it  
6 makes a lot of sense for people to talk about that together.

7 Chairman Isakson. My point is, I think the committee  
8 should be made aware in advance of the rule being amended by  
9 the Secretary, and I wish you would share that with Dr.  
10 Shulkin.

11 Dr. McCarthy. I will.

12 Chairman Isakson. I appreciate that.

13 Dr. McCarthy. Thank you.

14 Chairman Isakson. Senator Murray.

15 Senator Murray. Thank you very much.

16 Dr. McCarthy, vet centers are one of the most  
17 successful programs VA runs, with some really high  
18 satisfaction scores. I strongly believe that this is really  
19 an important service that would help greatly our Guard and  
20 Reserve members when they return home from deployments, and  
21 as we do so, we want to protect the vet center system and  
22 make sure it can meet the demand.

23 In Lacey, Washington, in my home state, we created a  
24 new satellite office of our Tacoma vet center to meet the  
25 needs of the veterans in the area and it is already at full

1 capacity and needs more staff and expanded hours, which I  
2 hope the Department will address.

3 But I wanted to ask you, if we expand eligibility for  
4 vet centers to members of the Guard and Reserve, how much  
5 additional resources will the VA need and will you make that  
6 in your request for your next budget?

7 Dr. McCarthy. Okay. So, let me just address the  
8 specific legislation about rehab counseling services. It  
9 talks about members of the Guard and Reserve who are not  
10 otherwise eligible, so we are not talking about combat  
11 veterans or veterans who may have experienced military  
12 sexual trauma or been involved with emergency medical care  
13 or mortuary services. That is the highlight of this  
14 particular proposed legislation that we are a little bit  
15 concerned about.

16 We do not want to destroy the special nature or culture  
17 of the vet centers. We do want to expand the role more. We  
18 have a staff that have been built up around trauma,  
19 counseling, and so forth, and so this expands the roles of  
20 the vet centers to cover more than just trauma counseling  
21 and that is our concern, not that we do not want to do it,  
22 but it would be a major mission shift for those in the vet  
23 centers. About 80 percent of the staff are themselves  
24 people who have been trauma counselors for quite a while.

25 We feel like the Guard and Reserves, they have

1 eligibility for care for MST and for those who have combat  
2 services and even those who have been discharged  
3 dishonorably can come to the vet centers, as you know. We  
4 are really proud of the vet centers. They do have some  
5 capacity to help us with our access for mental health and we  
6 are really looking to partner with them to do more. But we  
7 really do not want to change the culture and the mission.

8       There is a special clientele that goes to the vet  
9 centers, often people that do not want to have, for  
10 instance, a trail of medical records about the care that  
11 they are receiving, people that might be police, National  
12 Guard, active duty, Reservists. And there is a culture of  
13 combat veterans and veterans with MST. So, changing it to  
14 allow those that are not part of that group in particular is  
15 the part of that bill that we have concern about.

16       Senator Murray. I also wanted to ask you, as you know,  
17 veterans living in our rural communities often experience  
18 barriers to accessing the health care that they need. The  
19 Veterans Travel Enhancement Act would permanently authorize  
20 the Veterans Transportation Service to improve veterans'  
21 ability to access care and expand the definition of VA  
22 facilities to include vet centers. The Veterans  
23 Transportation Service has been very popular in my home  
24 State of Washington and I understand it is also very cost  
25 effective for the VA. If this legislation is enacted, how

1 much will you be able to expand VTS services?

2 Dr. McCarthy. So, first of all, I want to first of all  
3 thank our VSO partners, who themselves have quite a  
4 transportation network.

5 Senator Murray. Yes, they do.

6 Dr. McCarthy. I would not want us to not thank them.

7 Secondly, we are really excited about making that  
8 permanent. For us, the VTS made over 400,000 trips  
9 averaging 54 miles. It has been really quite significant  
10 for us. There has been a decrease in cost compared to  
11 beneficiary travel of four percent. That resulted in \$1.7  
12 million savings anticipated for fiscal year 2017.

13 There is some concern about expanding to the vet  
14 centers. There has been a pilot going on that has allowed  
15 for transportation for rural veterans to vet centers and the  
16 reaction to it has been somewhat negative and not what we  
17 expected. The concerns are twofold. First of all, from the  
18 point of view of the veterans, again, when I talked about  
19 the culture, the people that like the anonymity of coming to  
20 the vet centers, to process claims related to travel  
21 requires listing diagnosis and treatment and so forth and  
22 that is something that they do not want to be revealed in  
23 particular. So, that is one administrative function.

24 The other is the other side of the coin, the vet  
25 centers. I mean, they are set up for quick access, easy

1 availability. They do not have a lot of overhead people  
2 that would be involved in all the fiduciary  
3 responsibilities, and so it has been a concern for them, as  
4 well.

5 We are really supportive of the bill, but we do  
6 question the vet centers being included, although we  
7 understand the needs for help with veterans being  
8 transported to the rural vet centers, in particular.

9 Senator Murray. And I am out of time. So, thank you  
10 very much, Mr. Chairman.

11 Chairman Isakson. Thank you, Senator Murray.

12 Senator Heller.

13 Senator Heller. Mr. Chairman, thank you, and to our  
14 panelists, also, thank you for being here.

15 I just had a couple of questions. I want to thank the  
16 Chairman for including my legislation, S. 3035 with Senator  
17 Tester. I certainly do appreciate his support on this. The  
18 title on the bill is Maximizing Efficiency and Improving  
19 Access to Providers at the Department of Veterans Affairs  
20 Act of 2016. It is a long title, Mr. Chairman. It was not  
21 my first choice, but I will take it.

22 I think the bill is somewhat unique. It conducts a  
23 pilot program using medical scribes at the VA so that  
24 doctors can spend more time with their veteran patients. I  
25 am pleased that I have got the support of the VFW, the

1 Disabled Veterans organization, and the American Legion.  
2 But unfortunately, we do not have the VA on board yet. In  
3 fact, I am looking at some of the testimony. Doctor, you  
4 said the VA does not support this bill. Then you go on to  
5 say that the VHA is in the process of administering a  
6 request for proposals that includes the use of scribes. So,  
7 one, you say you are not for it, but then you say within the  
8 same paragraph that you have a proposal. Could you explain  
9 to me what your proposal is for the use of scribes and what  
10 the VA is envisioning here.

11 Dr. McCarthy. So, we--first of all, thank you. I  
12 think most clinicians who work with electronic medical  
13 records worry about the time taken away from patients in  
14 documenting and how much typing goes on versus scribes and  
15 so forth. So, we understand what is behind this.

16 Right now, VA has an enterprise-wide contract so that  
17 all front-end providers can use what is called a speech  
18 recognition contract, where it is Nuanced Dragon Medical 360  
19 Network Edition Version 2.3.

20 Senator Heller. Another long title.

21 Dr. McCarthy. I know. I am sorry about the long name,  
22 too--

23 Senator Heller. That is okay.

24 Dr. McCarthy. But, you know, I used this a long time  
25 ago, which was probably version negative one or something,

1 and when you do the Dragon dictate, you actually have to  
2 teach the device that is recording your voice and  
3 translating it into what is typed. You have to train it to  
4 your own personal voice or accent or whatever. But, this is  
5 available nationwide currently.

6 Our RFP, which is what you asked about, includes for  
7 scribes, transcription, and a health advocate at the same  
8 time that might be able to help us with some of the public  
9 health screening kind of measures that we do at the same  
10 time. So, it is a kind of tweak on what this one proposes,  
11 and so that is why.

12 We have a couple of pilots going on right now, but we  
13 also have that national contract and we are encouraging the  
14 use, as well.

15 Senator Heller. Doctor, I spent some time in Las Vegas  
16 and Reno this March and hosted two military and veterans  
17 roundtables. I heard from these veterans both in Northern  
18 Nevada and Southern Nevada, and probably one of the biggest  
19 complaints I got was they are concerned with how little time  
20 they actually got to spend with their doctor. So,  
21 obviously, hence, what you are trying to propose and what we  
22 are trying to propose, hopefully we can somewhat come  
23 together on this and understand that these patients, these  
24 veterans, need more eye-to-eye time with their doctors.

25 I guess the question I have right now, do you have any

1 statistics that show how much time a doctor does spend with  
2 their patients at a VA facility?

3 Dr. McCarthy. We have statistics about expectations  
4 and we include a typical primary care visit would be 30  
5 minutes. I sympathize with what the veterans are saying.  
6 Do not treat the computer, treat me.

7 Senator Heller. Yes.

8 Dr. McCarthy. And I fully understand that. We have  
9 worked to get our rooms set up so that you do not have to  
10 turn your back on the patient to enter things into the  
11 computer.

12 A lot of our screening happens in the initial primary  
13 care visit, but in that 20- to 30-minute visit, there is a  
14 lot that goes on. I can get you statistics about average  
15 amount of time spent if that would be helpful to you.

16 Senator Heller. Well, let me ask you this question.  
17 When you measure patient satisfaction, do you consider the  
18 time with the doctor as part of that satisfaction?

19 Dr. McCarthy. There is a measure that is things like  
20 did you feel like your need got met? Did you feel like the  
21 doctor understood what you were saying as what you brought  
22 to the appointment and so forth--

23 Senator Heller. And it is open-ended, also--

24 Dr. McCarthy. Yes.

25 Senator Heller. --for any comments that they may have?

1 Dr. McCarthy. Yes, sir.

2 Senator Heller. Do you have any statistics also that  
3 show how much time these doctors spend with these electronic  
4 health records?

5 Dr. McCarthy. I do not, but I can look for them. I  
6 would be happy to take that for the record.

7 Senator Heller. Okay. My time has run out.

8 Dr. McCarthy. Okay.

9 Senator Heller. Chairman, thank you very much.

10 Chairman Isakson. Senator Cassidy.

11 Senator Cassidy. Thank you, Mr. Chair.

12 Dr. McCarthy, I am interested in the WINGMAN Act, which  
13 I gather you all oppose, but when I read the nature of your  
14 opposition, I am not quite sure why you oppose. For those  
15 who--in short, when my folks are working to try and  
16 facilitate something with the VA, they sometimes wait weeks  
17 and months to get the record from the VA. My chief, the  
18 person who is my guru on all things how to make it work, she  
19 just kind of says, "Bill, sometimes we cannot get anything  
20 from the VA and there is nothing I can do except drive down  
21 there."

22 Now, here, I look at your testimony as to why you  
23 oppose allowing our staff read-only access to the records  
24 contingent upon the veteran signing a release that that may  
25 occur, and that is referenced in the bill, I think you

1 raised privacy concerns. But let me be explicit. What we  
2 reference, which is 552(a)(B) of Title V, explicitly says  
3 there has to be an informed consent by the patient to allow  
4 this access. So, I guess that is one thing. The privacy  
5 concern does not seem to work with me.

6 Secondly, we would expect that they would have the same  
7 training in use of these records as the VA folks. I  
8 understand that there is an online course that VA employees  
9 take to kind of do this claims sort of review, and that is  
10 what we presume would be for the Congressional staff. Is  
11 there something besides this online course which makes  
12 someone working for the VA specially qualified, and if so,  
13 why could not the Congressional staff have access to the  
14 same training?

15 Dr. McCarthy. I am going to pass that to my partner in  
16 VBA to answer that question.

17 Mr. McLenachen. Yes, Senator. I will take the  
18 question. Thank you.

19 Actually, Senator, our reading of the bill is  
20 apparently not the same as yours. We read the bill to mean  
21 that Congressional staff would actually have unprecedented  
22 access--

23 Senator Cassidy. Now, you define unprecedented which  
24 is somewhat pejorative, so what do you base upon--it is  
25 unprecedented, right, in the sense that before, we have had

1 to wait for somebody to send it to us--

2 Mr. McLenachen. Sure.

3 Senator Cassidy. --but it is--

4 Mr. McLenachen. Let me explain. They would have  
5 access greater than the VA employees. VA employees  
6 currently have access to records only if they have a need in  
7 working a particular veteran's claim. The bill would allow--  
8 -

9 Senator Cassidy. And that would be the case--let me  
10 interrupt, please--because the person would only have access  
11 if the veteran himself or herself signed a release. And,  
12 so, they would only have access for people in their district  
13 who had explicitly said, "I need help with my benefits and I  
14 am not getting it," sort of thing.

15 Mr. McLenachen. Actually, our reading of the bill  
16 indicates that the access would be irregardless of the  
17 individual's consent.

18 Senator Cassidy. No, that is wrong, and that is where  
19 I refer to--and I can give it to you if you wish--552(a)(B)  
20 of Title V, and I will read from here, "except pursuant to a  
21 written request or with a prior written consent of the  
22 individual to whom the record pertains," et cetera. So, I  
23 think I win on that one--

24 Mr. McLenachen. Well--

25 Senator Cassidy. --but go ahead.

1           Mr. McLenachen. I will certainly go back and take a  
2 look at it, but our position is that that authorization of  
3 the veteran has to be there. If the legislation provides  
4 for that, then yes, there may be some change to our views on  
5 the bill.

6           That is not the only issue in the bill. The bill  
7 creates some confusion about VA's accreditation program. VA  
8 accredits representatives for the purpose of providing  
9 representation on claims, not for purpose of access to our  
10 systems.

11           As I said before, and I apologize, it may have been  
12 before you came in, but we feel the solution to this  
13 problem--and I do not disagree with you that we are too slow  
14 in providing veterans' records even to veterans themselves.  
15 And to address that, we are going to make veterans' records  
16 available to them through e-Benefits, as well as to other  
17 individuals that the veteran authorizes to have access. I  
18 think that is the solution to this problem.

19           Senator Cassidy. I guess I am not following. If the  
20 veteran authorizes Johnny Isakson's staff person who is  
21 working on their veteran's benefit claim to have access to  
22 the record and it is--you can trust me, I am right on this  
23 one, because we explicitly said it had to be approved--I am  
24 not sure that is different from what you just said. Oh, we  
25 are going to release the records to whomever the veteran

1 tells us to release the records to. Did I miss something  
2 there? It seems substantially the same.

3 Mr. McLenachen. The bill concerns electronic access,  
4 and we currently do not provide--

5 Senator Cassidy. Oh. So now we still have to go back  
6 to waiting for you all to generate it. That is incredibly  
7 frustrating, let me tell you that.

8 Now, you are drawing a distinction between our aides  
9 accessing this record to look up, okay, they say you have a  
10 hepatitis claim and you say you were exposed and they say  
11 not, and you are saying that that is somehow with claims. I  
12 do not quite follow why allowing someone to do a PDF search  
13 for the word "hepatitis"--I am not following the distinction  
14 you are making, which is not to say there is not a  
15 distinction. I just do not follow it.

16 Mr. McLenachen. I think you will hear some concerns  
17 from the next panel, as well. You know, simply providing  
18 access to a record does not really interpret what that  
19 record means, and so I would hope that some engagement  
20 between our Congressional liaison and your staffs is  
21 helpful, as well as engagement with representatives such as  
22 the VSO representatives for a particular claimant. And I  
23 know that we would be very happy to work with the committee  
24 and any other member of Congress to figure out how do we get  
25 that information to you more quickly.

1           Senator Cassidy. You know, and I know I am out of  
2 time, so I will just finish by saying this, I have not yet  
3 heard an objection that actually sounds like it is firm. We  
4 have the privacy addressed. That is clearly addressed in  
5 this section, and I will submit this for the record, Mr.  
6 Chair.

7           [The information of Senator Cassidy follows:]

8           / COMMITTEE INSERT

1           Senator Cassidy. And the other just seems to be kind  
2 of a nebulous sort of, well, we do not want them in our  
3 record, even though it is read-only, because. And, I do not  
4 know if you can be--and I am out of time, so--but if you can  
5 respond maybe for the record as to why it is more than  
6 because.

7           Mr. McLenachen. I would be happy to.

8           Senator Cassidy. That is all I get right now. I yield  
9 back.

10          Chairman Isakson. Let me acknowledge how important  
11 your comments are, and before you arrived here, I raised  
12 exactly the same issues with the VA and reminded them that  
13 we are going to have a scheduled hearing here--not hearing,  
14 a scheduled roundtable here with representatives from each  
15 member's office back home and the VA to talk about the  
16 intercommunication between the VA and us in terms of case  
17 matter work with the Veterans Administration.

18          And I, like you, am a WINGMAN supporter. I would like  
19 to see us work through the difficulties that the agency has  
20 to make sure we improve access to information so we can  
21 improve the speed with which we get back to our veterans who  
22 have claims. So, your time was well spent and I thank you  
23 for your input.

24          Senator Sullivan.

25          Senator Sullivan. Thank you, Mr. Chairman, and I

1 appreciate the witnesses coming today.

2 I wanted to talk a little bit about a draft bill that I  
3 have been working on with the VA. It actually stemmed from  
4 a visit that Under Secretary Shulkin and I had in Alaska  
5 where we were out in several different communities. One of  
6 the big take-aways I believe he had from that trip was some  
7 of the big challenges that, not just Alaska, but rural  
8 states who have big veteran populations who do not have  
9 enough providers to actually help with regard to a lot of  
10 the challenges that the VA has.

11 So--and as you all probably know, there was a recent  
12 Association of American Medical Colleges survey that said  
13 close to 45 percent of doctors who do their residencies at  
14 certain medical schools end up staying there. Well, if you  
15 are like a state like mine where you do not have a medical  
16 school, you kind of start with a challenge.

17 So, we have been working closely with the VA for months  
18 now--it was actually really in many ways Dr. Shulkin's idea  
19 last year--that would have a pilot program for the VA to  
20 work with tribal organizations, particularly in states with  
21 heavy veteran populations but are very rural states. So,  
22 not just Alaska, but Montana, Wyoming, other places like  
23 that.

24 I know that--I guess that we were just outside of the  
25 time frame to get your guys' official view on that. You

1 said you needed three weeks. I think we got it to you two  
2 weeks and three days ago. So, if we did not make it under  
3 the deadline, I get that. But, it would be nice to be able  
4 to get the response. I am almost certain that the VA is  
5 supportive, since in many ways it was Dr. Shulkin's idea,  
6 and we have been working with you and some of the other  
7 organizations interested in this for months now.

8 So, Dr. McCarthy, would you mind just giving a view on  
9 that, whether it is official or not. I think we are very  
10 close and I would like to get your view. And then we are  
11 going to work hard to get others from other states, other  
12 members on this committee to be cosponsors of that, but we  
13 want to make sure the VA was good to go with it first.

14 Dr. McCarthy. So, we would really like to get to yes.  
15 There are a few items that we want to work with you about.  
16 I totally agree with you about the training and where people  
17 stay. You are exactly right, and I do think that this would  
18 be really important.

19 We have, also, as part of the Choice Act, we are trying  
20 to expand residency programs significantly--

21 Senator Sullivan. Yes. Right.

22 Dr. McCarthy. --and so this is a good fit for us.  
23 There are some other regulations that we have to get  
24 through. I do not want to speak for all of them--

25 Senator Sullivan. Okay.

1 Dr. McCarthy. --but I would be happy to talk to you  
2 more about it.

3 Senator Sullivan. Okay. Well, let us remember,  
4 though, we are also looking at statute, so obviously a law  
5 would trump a regulation.

6 Dr. McCarthy. Yes.

7 Senator Sullivan. So, I do not think, "we do not want  
8 to violate any regulations," but we also want to make sure  
9 that we understand the hierarchy here, and this is a pretty  
10 important issue. And I know even Secretary McDonald has met  
11 with different Alaska groups--

12 Dr. McCarthy. Right.

13 Senator Sullivan. --and has been supportive of it. So  
14 already, I know that we have top cover--

15 Dr. McCarthy. Right.

16 Senator Sullivan. --support from Under Secretary  
17 Shulkin, Secretary McDonald. For me, it is just really  
18 important to move this, and if we can get your commitment to  
19 move this, I think the Chairman is aware of what we are  
20 trying to do on this.

21 Let me ask--and you touched on it--let me ask a related  
22 question, that there were 1,500 new graduate medical  
23 education spots given to the VA through the Choice Act, and  
24 I think only 372 of those spots have been filled to date.  
25 So, what is the issue there? Why are so few relatively to

1 the number that Congress authorized have been filled, and is  
2 there anything we should be doing on that, or what should  
3 you be doing to make sure you take full advantage of the  
4 Choice Act provisions which you referenced and that, again,  
5 I think, dovetail nicely with the bill that we are working  
6 on with you guys?

7 Dr. McCarthy. So, the Choice Act gives us a five-year  
8 limitation and we really believe that building the  
9 relationships and building residency programs is going to  
10 take more than five years. So there is a significant amount  
11 of lead time.

12 I was involved in building residency programs in the  
13 site where I used to be a chief of staff and it is not  
14 something that is done overnight. I am a psychiatrist by  
15 training. I was working to partner on psychiatry residency  
16 programs. You have to set up, you know, relationships with  
17 child psychiatry programs and so forth, because we do not  
18 have that in VA. You have to get people that are willing to  
19 partner with you and so forth. So, it is not something that  
20 can happen overnight and those programs have to build their  
21 capacity and so forth. So, it takes a while to build.

22 I do think that expanding the Choice recommendations to  
23 ten years would help us a lot, but that said, there are a  
24 lot of efforts underway right now to try and partner as much  
25 as we can.

1 I personally have a heart for doing that, especially in  
2 the rural areas, particularly for what you said about when  
3 people train in an area, they stay. There are a number of,  
4 for instance, osteopathic medical schools that have set up  
5 residency programs in rural areas and that is exactly what  
6 is happening. More of them are staying in the area, which  
7 is, you know, it is not something that happened overnight,  
8 but it does take a lot of time.

9 So, when you set up one residency program, you know,  
10 family practice or mental health or whatever, there are  
11 other parts of the residency that you need to get going at  
12 the same time. So, it takes building relationships with  
13 community partners, which is very important work to do.  
14 There is a lot of good will out there. Some of the  
15 community partners are not of the--interested necessarily in  
16 building their own residency program, so there is convincing  
17 going on back and forth, and that is where we are right now.

18 Senator Sullivan. Thank you.

19 Thank you, Mr. Chairman.

20 Chairman Isakson. Thank you, Senator Sullivan.

21 Senator Tester.

22 Senator Tester. Thank you.

23 I would like to follow on. In the bill that we have  
24 got that we are trying to get through the Senate right now,  
25 I think there is a component to extend it to ten from five,

1 and I also think there is a component in it, if my memory  
2 serves me correctly, there are CMS caps right now and it  
3 will take those caps off, which will also help in a big, big  
4 way. So, once we get that done, then we are really going to  
5 get you if they are not filled up.

6 Look, we appreciate the testimony. Sorry I was late,  
7 but I had two other committee meetings, Senator Tillis, just  
8 to let you know.

9 In September of 2014, I wrote a letter to Secretary  
10 McDonald. It was brought to my attention that the Montana  
11 Board of Psychologists had reprimanded a VA psychologist for  
12 practicing outside the scope of his qualifications when  
13 performing a C&P exam for a Montana veteran with TBI. I was  
14 and I still remain concerned about the implications of these  
15 exams not being carried out properly. What ultimately led  
16 to the VA conducting a national review of medical exams of  
17 veterans who have filed disability claims related to TBI?

18 Mr. McLenachen. Senator, I will take that question. A  
19 while back, our facility in Minneapolis, on their own  
20 initiative, took a look to see if they were following VA  
21 policy about the specialists that are required to do the  
22 initial TBI exam. There are four specialists that VA  
23 requires to do those initial TBI exams, not the follow-on  
24 exams. And what they learned was that, in fact, there were  
25 about 300 veterans who did not receive that type of exam.

1 Senator Tester. Okay.

2 Mr. McLenachen. Based on that information, the Deputy  
3 Secretary asked us to do a nationwide review.

4 Senator Tester. Mm-hmm.

5 Mr. McLenachen. We did that. We recently discovered  
6 as a result of that review that there are about 24,000  
7 veterans that did not receive an initial TBI exam by one of  
8 those specialists. About 70 percent of those veterans--  
9 actually, about 17,000 of those veterans are already  
10 service-connected for TBI.

11 Senator Tester. Okay.

12 Mr. McLenachen. Nonetheless, looking back at the  
13 policy that we had issued over the years, starting in about  
14 2007, we concluded that the guidance was sufficiently  
15 unclear and perhaps confusing, that to be fair to all  
16 veterans, we needed to go back and offer them all an  
17 opportunity for a new exam.

18 Senator Tester. So, would it be fair to say that the  
19 VA protocol was inadequate?

20 Mr. McLenachen. It would be fair to say that if it  
21 created confusion, yes--

22 Senator Tester. Okay.

23 Mr. McLenachen. --it would be fair to say that.

24 Senator Tester. So, what are we doing? I mean, what,  
25 moving forward?

1           Mr. McLenachen. Well, that guidance has been  
2 clarified. VHA has gone out and checked with each of its  
3 facilities that do these type of exams and confirmed that  
4 that guidance is being followed.

5           Senator Tester. Okay.

6           Mr. McLenachen. One noteworthy point is that the  
7 overwhelming majority of these exams were done by a VBA  
8 contractor--

9           Senator Tester. Yeah.

10          Mr. McLenachen. --and the contract was amended in 2014  
11 to specifically require that these type of exams be done.

12          Senator Tester. Okay.

13          Mr. McLenachen. So--

14          Senator Tester. So, let me ask you this, because there  
15 is a bill called S. 244 that we are taking up today that an  
16 independent assessment of these protocols would be done by a  
17 medical expert. Do you think this would be helpful?

18          Mr. McLenachen. Senator, I think it is our view that  
19 it is unnecessary, given what I just explained about the  
20 specialists that are required to do these exams. In  
21 addition, and it is my understanding--I am not a physician--  
22 but the bill would require, or ask the IOM to focus on  
23 cognitive issues, where our--we use a more holistic  
24 approach--

25          Senator Tester. Yeah--

1 Mr. McLenachen. --that is broader than that.

2 Senator Tester. Even though it is my bill, I actually  
3 kind of like that. The question is, what do I do next time  
4 it happens--

5 Mr. McLenachen. Well--

6 Senator Tester. --when the exam is done improperly?

7 Mr. McLenachen. I think--

8 Senator Tester. Then--

9 Mr. McLenachen. Our commitment to you should be that  
10 this--we have solved this problem and it should not happen  
11 again.

12 Senator Tester. And if it happens again, does  
13 somebody's head roll?

14 Mr. McLenachen. Well, if somebody was not following  
15 the policy that we have in place, there should be  
16 accountability.

17 Senator Tester. Okay. All right. Okay.

18 I am out of time. Sorry. Well, I have got time for  
19 one more. Okay. The Veterans Transportation Service  
20 program has been successful in connecting veterans to care.  
21 I think it is efficient from a taxpayer standpoint and I  
22 think it is good for a veteran. The VA has previously said  
23 that reauthorizing this program would save taxpayer dollars,  
24 maybe as much as \$200 million over five years--that is a  
25 fair amount of money in my book--because it is cheaper to

1 hire drivers than to contract with an ambulance service.

2 Would you agree with that?

3 Dr. McCarthy. Yes, sir. We are very excited about the  
4 opportunity to extend this bill, but I am not sure the  
5 estimates that I have been given are of the level that you  
6 have talked about.

7 Senator Tester. You do not think it saves that much?

8 Dr. McCarthy. The most recent number I have been given  
9 is \$1.7 million in fiscal year 2017.

10 Senator Tester. Okay. So, let me ask you this. Would  
11 it help with the veterans that might be missing exams now  
12 that would not miss them if you had this service?

13 Dr. McCarthy. So, my understanding is this is more  
14 about care.

15 Senator Tester. Is it not about--okay, yes,  
16 transportation to care, right?

17 Dr. McCarthy. Yes. Yes, sir.

18 Senator Tester. And, so, I guess the point was not  
19 made very well by me. If a veteran has transportation, it  
20 would seem to me that they are much more likely to meet an  
21 appointment for care--

22 Dr. McCarthy. Right.

23 Senator Tester. --than if they did not.

24 Dr. McCarthy. Right.

25 Senator Tester. So, would this help reduce that

1 number?

2 Dr. McCarthy. One would expect that to be the case.  
3 When I heard exam, I was thinking VBA. I am sorry--

4 Senator Tester. Yes, that is right. So, can you tell  
5 me what percentage of--I am sure it varies by region--what  
6 percentage of appointments are not met by the veteran?

7 Dr. McCarthy. That does vary. I would not want to  
8 make a number. I would be happy to get back with you--

9 Senator Tester. It would be really good to know from  
10 my perspective, and it is my bill, that if, in fact, the  
11 percentage is higher than it ought to be and if they are  
12 being missed because of transportation reasons.

13 Dr. McCarthy. I am familiar more with by specialty--

14 Senator Tester. I am sorry. I took way too much time  
15 now. Sorry, Mr. Chairman.

16 Chairman Isakson. No apology necessary, Senator  
17 Tester. Thank you for coming.

18 For the edification of the members that are present as  
19 well as the audience, we have one other Senator who had  
20 asked to be recognized, Senator Merkley, who was supposed to  
21 be on the way, but he is not here yet--

22 Senator Tester. He is right there.

23 Chairman Isakson. Oh, I am sorry. Well, the  
24 Chairman's eyesight is getting bad, Senator Merkley.

25 We will let the first panel be excused. Thank you for

1 your time.

2 I am going to give Senator Merkley up to five minutes  
3 to make his presentation, then we will go immediately to the  
4 second panel. There is a classified briefing at 4:00 for  
5 members of the Senate, so if you have only me left in the  
6 room, that will be the reason why.

7 Senator Merkley, you are recognized for up to five  
8 minutes. As is the tradition of the committee, there will  
9 be no exchange of questions at this time. We welcome  
10 hearing about your legislation.

1                   STATEMENT OF HONORABLE JEFF MERKLEY, A UNITED  
2                   STATES SENATOR FROM THE STATE OF OREGON

3           Senator Merkley. Thank you very much, Mr. Chairman.  
4 It is an honor to be able to introduce S. 2279, the Veterans  
5 Health Care Staffing Improvement Act. I want to thank my  
6 colleague, Senator Rounds, for co-leading this bill and to  
7 thank the members of this committee who are sponsoring it,  
8 including Senator Rounds, Senator Tillis, Senator Murray,  
9 Senator Brown, Senator Tester, as well as cosponsors who do  
10 not sit on this committee.

11           Our servicemen and women are the very best  
12 demonstration of our nation's greatness, folks who have  
13 stepped up, taken the oath, and put on the uniform so the  
14 rest of us can live in a country that is safer and more  
15 secure. While we often offer warm words of thanks, we  
16 should be looking for ways to do more, and that is what our  
17 bill aims to do.

18           Every day, hundreds of thousands of dedicated public  
19 servants at the VA help us honor that commitment. In VA  
20 hospitals across the country, many doctors and nurses work  
21 hard to deliver world class care. But we all recognize that  
22 we have more to do, we have further to go to improve VA  
23 hospitals, to reduce long wait times, to ensure that all of  
24 our veterans, every single one, gets the care they need, the  
25 care they deserve. And this bill, the Veterans Health Care

1 Staffing Improvement Act, will help us meet that goal.

2       This legislation makes common sense changes in staffing  
3 policies to improve veterans' care and working conditions at  
4 VA health care facilities. It would increase the ability of  
5 the VA to recruit veterans who served as health care  
6 providers while they are in the military. We call this the  
7 Docs-to-Doctors program. It makes common sense. We hear  
8 again and again from returning veterans that they want to  
9 have a new mission. They want to be able to continue  
10 helping their fellow Americans and their fellow soldiers.  
11 What better way than allowing veterans with a medical  
12 background to continue serving in the VA system, to  
13 streamline the red tape so these doctors and other health  
14 care providers can transition seamlessly into the VA system.  
15 That is a win-win.

16       This legislation also creates uniform credentialing  
17 rules for medical professionals so VA doctors and other  
18 licensed health care providers do not have to wait weeks or  
19 months to recredential if they want to move hospitals or  
20 split their time and work at multiple VA facilities.

21       It provides full practice authority to Advance Practice  
22 Registered Nurses, APRNs, nurses with post-graduate  
23 education, and physician assistants in the VA health system.  
24 This will help to make more primary care providers  
25 available, and certainly this is important in rural areas.

1           And that is why this bill is needed now more than ever,  
2 to ensure our veterans can get the care they need and staff  
3 can practice to the full extent of their education and  
4 training. Writing these measures into law will make the VA  
5 more effective, more efficient. It will make it easier for  
6 the VA to achieve the staffing levels they need and to  
7 ensure the VA can better carry out its mission and to put  
8 veterans first.

9           Caring for our veterans is an area where Democrats and  
10 Republicans have worked together and should always be  
11 working together, and this bill represents that.

12           This bill is endorsed by many veterans organizations  
13 and 37 different nursing groups. The veterans groups  
14 include the Veterans of Foreign Wars, the Vietnam Veterans  
15 of America, the Iraq and Afghanistan Veterans of America,  
16 the National Guard Association, the Reserve Officers  
17 Association, the American Legion Department of Oregon.

18           I am delighted to be able to come and testify on behalf  
19 of this bill. We have a huge problem affecting our entire  
20 health care system, which is so many of our practitioners  
21 are Baby Boomers and they are retiring. And so many of us  
22 are Baby Boomers and need more medical care. And,  
23 therefore, we have an increase in demand and a decrease in  
24 supply, and we see that affecting our VA system as it  
25 competes with the rest of the health care system.

1           So, we have all of these soldiers coming home with  
2 experience, with the desire to have a significant mission,  
3 with the skills to be able to help in our VA health care  
4 system. Let us streamline that path, and that is what this  
5 bill does, and I would appreciate the support of the entire  
6 committee.

7           Thank you, Mr. Chairman.

8           Chairman Isakson. Thank you, Senator Merkley. We  
9 appreciate your interest and your testimony.

10          Now it is time to recognize the second panel, if you  
11 will come forward and sit according to the nameplates as  
12 they are placed.

13          [Pause.]

14          Chairman Isakson. Our second panel includes Mr. Roscoe  
15 Butler, Deputy Director of Health Care, National Veterans  
16 Affairs and Rehabilitation Division of the American Legion;  
17 Carlos Fuentes, Deputy Director, National Legislative  
18 Service, Veterans of Foreign Wars; Rick Weidman, Executive  
19 Director for Policy and Government Affairs, Vietnam Veterans  
20 of America; and Kevin Ziober, member of the Reserve  
21 Component.

22          We welcome all of you and look forward to your  
23 testimony. You have got five minutes. We will start with  
24 Roscoe Butler.

25          Senator Sullivan. Mr. Chair, if I just may--I am sorry

1 to interrupt, but you all are one of the main reasons why I  
2 like coming to these meetings. I appreciate the VA, but I  
3 do have to go off to this other meeting. So with respect to  
4 bills that I am working on, I would appreciate your offices  
5 contacting mine so that we can work together.

6 Thank you, Mr. Chair. Sorry for the interruption.

7 Chairman Isakson. Well, thank you, Senator Tillis.

8 I would advise everybody, we do have a secure briefing  
9 which begins in four minutes.

10 Roscoe Butler, welcome.

1           STATEMENT OF ROSCOE BUTLER, DEPUTY DIRECTOR OF  
2           HEALTH CARE, NATIONAL VETERANS AFFAIRS AND  
3           REHABILITATION DIVISION, THE AMERICAN LEGION

4           Mr. Butler. Thank you. On March 4, 1865, during  
5 President Lincoln's second Inaugural Address, the President  
6 addressed our nation's veterans and called upon the nation  
7 to care for him who shall have borne the battle, and for his  
8 widow and his orphan, which affirmed the government's  
9 obligation to care for those injured during the war and to  
10 provide for the family of those who perished on the  
11 battlefield. This became the Department of Veterans Affairs  
12 trademark motto. Across the nation, from Maine to  
13 Washington State, veterans, their families, and Veterans  
14 Service Organizations have called out again for affirming  
15 the government's obligation to care for our nation's heroes  
16 and their families.

17           Chairman Isakson, Ranking Member Blumenthal, and  
18 distinguished members of the committee, on behalf of the  
19 National Commander, Dale Barnett, and the American Legion,  
20 the country's largest patriotic wartime service organization  
21 for veterans, comprising over two million members and  
22 serving every man and woman who has worn the uniform for  
23 this country, we thank you for the opportunity to testify  
24 regarding the American Legion's positions on the pending  
25 draft bills.

1           There are several bills on the agenda today and you  
2 have our full written remarks for the record. Therefore, I  
3 will focus only on a couple of key bills.

4           Operation Iraqi Freedom, Enduring Freedom, and New Dawn  
5 veterans are returning home in alarming numbers with  
6 traumatic brain injuries. TBI has become one of the  
7 signature injuries of the current war on terror. Recently,  
8 VA acknowledged that it may have under-evaluated nearly  
9 25,000 veterans suffering from TBI. In a June 2016 press  
10 release, VA stated veterans whose initial examination for  
11 TBI was not conducted by one of four designated medical  
12 specialists and provides them with the opportunity to have  
13 their claims reprocessed. TBI is an inherently complex  
14 medical condition and requires the opinions of specialized  
15 medical professionals to determine the level of severity and  
16 disability.

17           S. 244 would require an independent comprehensive  
18 review of the process by which VA assesses cognitive  
19 impairments that result from TBI for purposes of awarding  
20 disability compensation and for other purposes. The  
21 American Legion believes that it is imperative that Congress  
22 ensure that veterans suffering from the devastating and  
23 debilitating effects of TBI are properly evaluated for the  
24 conditions and any symptoms associated with the conditions  
25 for those reasons mentioned. The American Legion supports

1 S. 244.

2 In 2014, the American Legion System Worth Saving  
3 program issued a report on rural health care and in 2014  
4 issued a report on women veterans' health care. Both  
5 reports identified significant challenges veterans face in  
6 obtaining health care in rural locations as well as health  
7 care challenges women veterans face.

8 S. 2210, the PEER Act, calls on the Department of  
9 Veterans Affairs to establish peer specialists to be  
10 assigned in patient-aligned care teams at designated VA  
11 medical centers, to include female peer specialists. Peer  
12 specialists in the private sector have become an integral  
13 part of health care teams and are vital in promoting the  
14 recovery of patients.

15 The American Legion believes this bill will improve  
16 health care for male and female veterans living in rural  
17 areas. The American Legion supports developing a national  
18 program to provide peer-to-peer rehabilitation services  
19 based on the recovery model tailored to meet the specialized  
20 need of current generation's combat affected veterans and  
21 their families. Therefore, the American Legion strongly  
22 believes the Secretary of Veterans Affairs should utilize  
23 returning servicemembers for positions as peer support  
24 specialists in the effort to provide treatment, support  
25 services, and readjustment counseling for those veterans

1 requiring these services. Therefore, the American Legion  
2 supports S. 2210.

3 I want to thank you, Chairman Isakson, Ranking Member  
4 Blumenthal, and members of the committee. I appreciate the  
5 opportunity to present the American Legion's views and look  
6 forward to answering any questions you may have.

7 [The prepared statement of Mr. Butler follows:]

1           Chairman Isakson. Roscoe, you are always thorough and  
2 we appreciate your input on the committee's work all the  
3 time and you are welcome to be here today. Thank you for  
4 coming.

5           Mr. Fuentes.

1                   STATEMENT OF CARLOS FUENTES, DEPUTY DIRECTOR,  
2                   NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN  
3                   WARS

4           Mr. Fuentes. Mr. Chairman, Ranking Member Blumenthal,  
5 and members of the committee, on behalf of the men and women  
6 of the VFW and our Auxiliaries, I would like to thank you  
7 for the opportunity to present our views on legislation  
8 pending before the committee.

9           The VFW supports most of the bills being considered  
10 today, but I will limit my remarks to those we urge the  
11 committee to amend.

12           The VFW supports the Maximizing Efficiency and  
13 Improving Access to Providers Act. However, we urge the  
14 committee to require contractors hired as medical scribes to  
15 help VA providers locate medical documents in a veteran's  
16 electronic health care record, such as labs and private  
17 sector health records. This would ensure VA providers spend  
18 less time navigating electronic health care records and more  
19 time treating veterans.

20           The VFW supports the VA Dental Insurance  
21 Reauthorization Act of 2016 but urges the committee to  
22 consider expanding VA dental care eligibility instead of  
23 passing on the costs of dental coverage onto the veterans.  
24 Oral health has a direct impact on overall health.  
25 Additionally, several health care conditions prevalent among

1 veterans, such as diabetes, have been found to directly  
2 impact oral health. Until January 2014, veterans enrolled  
3 in VA health care have little to no options for receiving  
4 dental care. While the VA dental insurance program provides  
5 dental care options to 100,000 veterans and their eligible  
6 families, VFW members consider this program as better than  
7 nothing. The VFW believes veterans have earned the best,  
8 not better than nothing.

9       Additionally, veterans who participate in the dental  
10 insurance program do not have their dental records  
11 integrated into their VA electronic health care records.  
12 Thus, VA providers are unable to determine if these veterans  
13 have dental conditions that may impact their overall health.  
14 That is why the VFW supports expanding eligibility for VA  
15 dental care to all veterans who are enrolled in--who are  
16 eligible for VA health care.

17       While the VFW agrees with the need to improve the  
18 ability of Congressional staff to assist veterans with their  
19 claims, we cannot support the WINGMAN Act at this time. We  
20 have several concerns that would need to be addressed before  
21 we could support this bill, and like VA, our reading of the  
22 bill did not require Congressional staff to have signed  
23 release before having access to the records. And then we  
24 agree with VA and Senator Cassidy that that is necessary.

25       When a power of attorney is held by an individual or

1 organization, that entity must be notified of Congressional  
2 involvement. Congressional staff must pass VA certification  
3 tests and level-sensitive restrictions that apply to VA  
4 employees and service officers must also apply to  
5 Congressional staff, including consequences for staff found  
6 to have abused their authority.

7       The VFW acknowledges the need for improved access to  
8 mental health care for Guard and Reserve servicemembers, but  
9 we cannot support the expansion of vet center eligibility to  
10 non-combat veterans. The rate of suicide among our  
11 servicemembers is equally as troubling as the rate of  
12 suicide among veterans. While DOD's suicide prevention  
13 programs have successfully reduced the rate of suicides  
14 among our active duty force, it has not been able to  
15 replicate those efforts in its Reserve components. To  
16 address this need, the VFW urges Congress and DOD to devote  
17 more efforts and resources to combat the rate of suicide  
18 among Guardsmen and Reservists. Additionally, DOD must  
19 leverage shared agreements with VA to ensure Guardsmen and  
20 Reservists who live in rural and remote areas have access to  
21 the mental health care they need.

22       Mr. Chairman, this concludes my remarks. I am happy to  
23 answer any questions you or the members of the committee may  
24 have.

25       [The prepared statement of Mr. Fuentes follows:]

1           Chairman Isakson. Thank you, Mr. Fuentes. We  
2 appreciate your testimony.

3           Mr. Rick Weidman, Executive Director for Policy and  
4 Government Affairs, VVA.

1                   STATEMENT OF RICK WEIDMAN, EXECUTIVE DIRECTOR FOR  
2                   POLICY AND GOVERNMENT AFFAIRS, VIETNAM VETERANS OF  
3                   AMERICA

4           Mr. Weidman. Thank you, Mr. Chairman. I appreciate  
5 the opportunity for VBA to share some of our views today.

6           S. 244, Senator Tester's bill, we would strongly  
7 endorse that. One of the problems that VA has always had is  
8 consistency across the board and working to do quality  
9 assurance of every VA hospital. It is no different in this  
10 case than anything else. One of the things we would point  
11 out, however, that has never been mentioned by VA, is nobody  
12 ever tested previous generations of veterans no matter what  
13 other symptoms they might have. Vietnam veterans were  
14 subject to the same kinds of explosions as those of the more  
15 recent wars.

16           The Rural Veterans Travel Enhancement Act, we are very  
17 strongly for. The Veterans' Partners Efforts to Enhance  
18 Reintegration Act, Senator Blumenthal's bill and others, we  
19 are strongly in favor of a patient having the peer review--  
20 excuse me--having the peer specialists but think it should  
21 not end there. There should be a ladder for young veterans  
22 to move up into any medical profession without regard to  
23 cost, even if they do not have available the 21st Century  
24 G.I. Bill, on a condition that they give back at least year  
25 for year in tuition. We are going to have to do many

1 imaginative things in the next ten years. Otherwise, we are  
2 not going to have the clinical resources we need to operate  
3 the system properly.

4 In regard to the Atomic Veterans Health Care Parity  
5 Act, I would respectfully strongly disagree with the VA on  
6 this. I would point out that the VA has been wrong about  
7 every single darn toxic exposure in my adult lifetime. They  
8 are always wrong. They always say there is no problem.  
9 They always say, do not worry about it, and almost  
10 invariably, they are proven wrong. So, this bill is very  
11 much needed and we need to look at the whole area of VA of  
12 toxic exposures and what is happening with staff there and  
13 with policy about how they are carrying it out, because it  
14 is not right, what they are doing.

15 Senator Fischer's bill, we have always been--VVA has  
16 been strongly in favor of giving as much private capital  
17 into the game as possible, particularly when it comes to  
18 capital construction, and think we should look not only to  
19 Senator Fischer's bill, but look to do the same when it  
20 comes to housing and permanent housing as well as transition  
21 housing for homeless veterans.

22 S. 3021, we will take the Senator at his word that this  
23 is a great outfit, but it needs monitoring, and particularly  
24 if people want to do the same thing elsewhere.

25 The Arla Harrell Act by Senator McCaskill, this is yet

1 another place where we need to look hard and, frankly, do  
2 not trust VA's judgment when it comes to whether or not  
3 these veterans have been affected adversely, either, and it  
4 is something that oversight really needs to look closely at,  
5 Mr. Chairman. I am not sure what we do about that bill, or  
6 about that problem systemically, but I know it systemically  
7 needs to be adjusted, because the one thing that will be a  
8 constant from now until long after we are gone is toxic  
9 exposures of our military forces of one kind or another and  
10 we need to start to figure out how to do a better job and  
11 not just the answer of "no" and "no problem."

12 The Veterans Compensation Cost of Living Act, frankly,  
13 we think the CPI is busted, and anybody who looks at what  
14 the CPI says about advance increases for the cost of living  
15 and then looks at their own household budget does not have  
16 any respect for it because it does not square with the  
17 reality that people see in front of them. So, while that is  
18 bigger than this committee, to have compensation cost of  
19 living indexed to the CPI is always going to fall short on  
20 the part of our veterans.

21 The dental insurance, we are in favor of it, since  
22 Congress has thus far been reluctant to move in that  
23 direction and VA just says no. But, frankly, VVA agrees  
24 with the VFW on this issue. We are long past the time when  
25 we consider dental health a frill and it is essential to

1 health and moving forward.

2 I do not have time to comment on the other bills, but  
3 the Integrate Networks Guaranteeing Member Access, we have  
4 significant problems with and we will be happy to discuss it  
5 with Senator Cassidy and his staff.

6 Mr. Chairman, thank you for the opportunity to speak  
7 here today.

8 [The prepared statement of Mr. Weidman follows:]

1 Chairman Isakson. Thank you, Mr. Weidman, very much.  
2 Kevin Ziober, member of the Reserve Component. Kevin,  
3 you are welcomed.

1                   STATEMENT OF KEVIN ZIOBER, MEMBER OF THE RESERVE  
2                   COMPONENT

3           Mr. Ziober. Mr. Chairman, Ranking Member Blumenthal,  
4 thank you for this opportunity to testify in support of S.  
5 3042, the Justice for Servicemembers Act, and to share my  
6 personal views and experiences on the importance of strong  
7 USERRA law.

8           I applaud Senator Blumenthal for introducing this much  
9 needed legislation that would clarify that servicemembers  
10 and veterans cannot waive their substantive or procedural  
11 rights under USERRA, consistent with the original intent of  
12 Congress when it enacted USERRA in 1994.

13           As a private citizen, a combat veteran and Reservist, I  
14 stand with the 32 Veterans Service Organizations in the  
15 military coalition who support this legislation. Without  
16 USERRA's strong substantive and procedural protections, it  
17 would be impossible for millions of Americans to serve in  
18 the Guard and Reserve to help protect our homeland and  
19 advance America's interests abroad.

20           As the committee is aware, USERRA guarantees  
21 servicemembers the right to return from their civilian jobs  
22 after serving in the military and prohibits employment  
23 discrimination based on military service or status. USERRA  
24 makes it possible for Reservists like me to serve our nation  
25 in the Armed Forces.

1           Several years ago, I lost a job that I loved because I  
2 chose to serve my country. But sadly, my story is not  
3 unique. Each year, thousands of Reservists lose their jobs  
4 or miss out on benefits because employers are not aware of  
5 USERRA or they find our military service to be inconvenient.

6           In July 2010, I was hired by a federal contractor  
7 called BLB Resources. From 2010 to 2012, as a manager, I  
8 helped BLB expand its operations and workforce from 18  
9 employees to over 90. In November 2012, I received active  
10 duty orders to deploy to Afghanistan for 12 months. As soon  
11 as I learned of the upcoming deployment, I gave BLB notice.  
12 On my last day of work, BLB hosted a lunchtime party to  
13 honor my military service. Forty coworkers gave me a  
14 standing ovation. I was presented with a large cake with an  
15 American flag and the inscription, "Best Wishes Kevin," and  
16 my colleagues decorated my office with camouflage netting  
17 along with cards and gifts that were stacked on my desk.

18           Around 4:45 on that same afternoon, I was called into  
19 the Human Resources Department, where I was promptly fired  
20 and told that my position would not be available upon my  
21 return from active duty. I was shocked to learn that I was  
22 being terminated from my job on the eve of my deployment to  
23 a combat zone. It created an unimaginable amount of concern  
24 and anxiety about how I would earn a living once my military  
25 orders had ended.

1           Upon returning home from Afghanistan in 2014, I was  
2 further surprised by what happened when I tried to enforce  
3 my rights. After I filed a USERRA claim in Federal Court,  
4 BLB asked the court to compel me to arbitrate my USERRA case  
5 and the court agreed. This was shocking, because I knew  
6 that when Congress passed USERRA, it explicitly stated that  
7 veterans and servicemembers cannot waive any of their  
8 rights, that they are entitled to enforce their rights in  
9 Federal Court, and that they cannot be required to arbitrate  
10 their claim.

11           Fortunately, my story did not end there. I found legal  
12 advocates who agreed to take my case to the U.S. Court of  
13 Appeals and, if necessary, to the U.S. Supreme Court. But  
14 the nation's highest court should not need to decide whether  
15 servicemembers can waive their procedural rights under  
16 USERRA. By passing the Justice for Servicemembers Act now,  
17 Congress can clarify that all USERRA rights are protected  
18 against waiver and ensure once and for all that no  
19 servicemember is forced to choose his USERRA rights and a  
20 job that puts food on the table.

21           Today, servicemembers face uncertainty when they  
22 enforce their USERRA rights. In 2005, the Bush  
23 administration issued a final rule stating that  
24 servicemembers cannot be forced to arbitrate their USERRA  
25 claims. Some courts have faithfully followed the intent of

1 Congress on this issue while others have not. Due to this  
2 split within the courts, it is much harder for  
3 servicemembers to leave their civilian jobs with confidence  
4 when they are called to duty because they do not know what  
5 to expect if they ever need to enforce their USERRA rights.

6 When servicemembers are required to arbitrate their  
7 USERRA claims, they do not just lose the right to file an  
8 action in court. They also lose many of the enforcement  
9 tools that make USERRA a strong law, such as the right to  
10 file in any district where the employer has a place of  
11 business, the lack of a statute of limitations period, and a  
12 ban on making servicemembers pay filing fees or an  
13 employer's fees and costs.

14 By enacting the Justice for Servicemembers Act,  
15 Congress can send a powerful bipartisan message to all those  
16 who have served or are thinking about serving in the future.  
17 Congress can make clear that it understands the challenges  
18 we face and supports us so that no servicemember or veteran  
19 will ever again experience what happened to me. No  
20 warfighter who is asked to leave his job and risk his life  
21 for his country should ever need to worry about fighting for  
22 his job when he returns home.

23 Thank you very much for your time and consideration of  
24 my views. I look forward to answering your questions.

25 [The prepared statement of Mr. Ziober follows:]

1 Chairman Isakson. Well, thanks to all of you for your  
2 testimony.

3 I will make a couple of comments probably rather than  
4 questions. I do have a couple questions, too.

5 But comment number one--and I think Mr. Weidman talked  
6 about the Consumer Price Index adjustment--Senator  
7 Blumenthal and I, along with every member of the committee,  
8 Republican and Democrat alike, have cosponsored the COLA  
9 adjustment for this year. Your concerns about the  
10 calculations of CPI are duly noted and I am pleased that we  
11 have made it the unanimous recommendation of the Senate to  
12 adjust compensation wherever it is indexable by CPI, and  
13 there will be an increase in those benefits at the end of  
14 this fiscal year for next fiscal year. That was everybody  
15 on the committee.

16 Secondly, Mr. Fuentes, as I understood it, you and a  
17 number of others, the way you read the WINGMAN Act was that  
18 it did not require a privacy release before the staffer  
19 could get the information, is that right?

20 Mr. Fuentes. That is correct, Mr. Chairman.

21 Chairman Isakson. But I also heard you say, if it did  
22 require the privacy release, you did not have any problem  
23 with the legislation, is that correct?

24 Mr. Fuentes. Well, there are a couple other concerns  
25 that we have with the legislation, mainly that the

1 restriction levels have to apply to Congressional staff, as  
2 well, meaning that they could only view records for folks  
3 for whom they have a privacy release from. And also as a  
4 Veterans Service Organization, we hold power of attorney for  
5 a number of veterans and we would like Congressional staff  
6 to either notify--or VA to notify Veterans Service  
7 Organizations of any individual that holds a power of  
8 attorney for that veteran. And I have a couple other ones.  
9 Overall, I think it is four recommendations that are  
10 included in my written testimony.

11 Chairman Isakson. And we have that, and all that  
12 testimony will be made a part of the record, without  
13 objection.

14 Mr. Fuentes. Thank you, Mr. Chairman.

15 Chairman Isakson. I had one other point. We will deal  
16 with each of these pieces of legislation in the near future.  
17 As we have in the past, this committee tries to do due  
18 diligence to the maximum extent possible before we act, just  
19 as we did in the Veterans First Act, which is a  
20 consolidation of 148 recommendations that came out of  
21 members of this committee. We are looking forward to moving  
22 that legislation in the near future.

23 I want to make an editorial comment and a plea to each  
24 of your Service Organizations, all of whom have been  
25 supportive of what we have done with Veterans First, to help

1 continue to express that support to members of the United  
2 States Senate and the United States House so that we can get  
3 that legislation passed.

4 With the decision of Loretta Lynch, who is the Attorney  
5 General of the United States, not to enforce the  
6 government's position granted to the government under the  
7 Veterans Choice Act, we have a serious problem of  
8 accountability with no remedy whatsoever, either from the  
9 Secretary or from the Attorney General's Office. The  
10 Veterans First bill which Senator Blumenthal and I worked  
11 very hard on, along with every member of the committee, has  
12 a complete, comprehensive accountability piece to it. It  
13 may not be everything everybody would have liked to have  
14 had, but it is one heck of a lot better than what they have  
15 got right now, which is absolutely zero.

16 So, your help from your organizations to support us  
17 with the other members of Congress would be greatly  
18 appreciated and I thank you for your input.

19 Senator Blumenthal.

20 Senator Blumenthal. Thanks, Mr. Chairman.

21 I want to thank you, Mr. Ziober, for being here and for  
22 your participation earlier today in support of an event  
23 spreading awareness and raising concern. I am hoping that  
24 we will have bipartisan support on this committee for the  
25 USERRA clarification that is in the legislation that I have

1 proposed. I want to thank all of the Veterans Service  
2 Organizations that are supporting this measure--in fact,  
3 they all are--and I think it will make a significant  
4 difference in the lives of our Reservists and National  
5 Guard, so thank you to you and for your attorney for being  
6 here today.

7 Mr. Ziober. Yes, sir. Thank you.

8 Senator Blumenthal. And I want to thank the other  
9 witnesses. I appreciated your testimony. In the interests  
10 of time, since we have a classified briefing ongoing right  
11 now, I am going to talk to you individually about any  
12 questions that I might have, and I know that you have all  
13 been very generous with your time when I do have questions,  
14 so I thank you very much.

15 Thanks, Mr. Chairman.

16 Chairman Isakson. Thank you, Senator Blumenthal, and  
17 thanks to all of you for your attendance today.

18 We will stand adjourned.

19 [Whereupon, at 4:20 p.m., the committee was adjourned.]