

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 3230), making continuing appropriations during a Government shutdown to provide pay and allowances to members of the reserve components of the Armed Forces who perform inactive-duty training during such period, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the House bill and the House amendment to the Senate amendment. The differences between the House amendment, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

OVERVIEW

The House amendment to the Senate amendment to the Conference bill consists of provisions from the following House bills: H.R. 4810, the Veteran Access to Care Act of 2014, which passed the House on June 10, 2014, and H.R. 4031, the Department of Veterans Affairs Management Accountability Act of 2014, which passed the House on May 21, 2014.

The Senate amendment consists of provisions from the following Senate bill: S. 2450, the Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, which was incorporated as a substitute amendment to H.R. 3230 and passed the Senate on June 11, 2014.

TITLE I – IMPROVEMENT OF ACCESS TO CARE FROM NON-DEPARTMENT OF VETERANS AFFAIRS PROVIDERS

Expanded availability of hospital care and medical services for veterans through the use of agreements with non-Department of Veterans Affairs entities.

Current Law

Section 1710 of title 38, United States Code (hereinafter, "U.S.C."), requires the Department of Veterans Affairs (hereinafter, "VA") to provide hospital care and medical services to eligible veterans. Section 1703 of title 38, U.S.C., authorizes VA to contract with non-Department facilities and providers to furnish hospital or medical services to eligible veterans when VA is not capable of providing economical care because of geographical inaccessibility or due to an inability to furnish

such care or services required. Sections 1725 and 1728 of title 38, U.S.C., authorize VA to reimburse for certain types of care, such as emergency treatment, at non-Department facilities. Section 1786 of title 38, U.S.C., authorizes VA to provide needed post-delivery care and services. Section 8111 of title 38, U.S.C., authorizes VA to enter into sharing agreements at other government facilities. Section 8153 of title 38, U.S.C., authorizes a VA facility to enter into a contract or agreement with non-VA health care entities to secure healthcare services that are either unavailable or not cost-effective to provide at a VA facility.

Senate Amendment

The Senate amendment would require VA to provide hospital and medical services to an eligible veteran, at the election of such veteran, through non-VA health care providers, who participate in the Medicare program, or at Federally Qualified Health Centers (hereinafter, "FQHCs"), facilities funded by the Indian Health Service (hereinafter, "IHS"), or Department of Defense (hereinafter, "DOD"). It would also require the Secretary of Veterans Affairs (hereinafter, "the Secretary") to coordinate the delivery of such non-VA care and services through the Non-VA Care Coordination Program.

For purposes of receiving non-VA care and services as a veteran enrolled in the VA health care system, the Senate amendment would define an eligible veteran as someone who is unable to schedule an appointment at a VA medical facility within VA's stated wait-time goals; resides more than 40 miles from the nearest VA medical facility; or, in the case of a veteran who resides in a State without a VA medical facility that provides hospital care, emergency medical services, and surgical care, resides 20 miles from such VA medical facility.

It would also authorize VA to enter into negotiated contracts with eligible non-VA providers for the provision of care and services to an eligible veteran. Furthermore, it would authorize VA to establish contracts with non-VA providers at the Medicare rate or to negotiate a rate that is higher than the Medicare rate, only if VA is unable to find a health care provider that is able to provide such care and services at the Medicare rate.

House Amendment

The House amendment would require VA, for two years after enactment, to offer non-VA care at the Department's expense to any enrolled veteran who resides more than 40 miles from a VA medical facility or has waited longer than the VA's wait-time goals - as of June 1, 2014 - for a medical appointment or has been notified by VA that an appointment is not available within VA's wait-time goals - as of June 1, 2014 - and who elects to receive care at a non-VA facility. In furnishing such care, the House amendment would require VA to utilize existing contracts to the greatest extent possible; to reimburse any non-VA care providers with which VA has not entered into an existing contract, at the greater of the rate set by VA, TRICARE, or Medicare, for care received by an eligible veteran; and, ensure that a non-VA care authorization encompasses the complete episode of care but does not exceed sixty days.

It would also require VA to submit to Congress a quarterly report, which includes how many eligible veterans have received non-VA care or services.

Conference Agreement

The Conference agreement adopts the Senate provision with amendments to eligibility, payment rates and VA's obligation for payments for non-service-connected care or services. The conference substitute defines an eligible veteran as a veteran who is enrolled in the patient enrollment system as of August 1, 2014, or any veteran who enrolls after such date and who, at any time during the five-year period preceding such enrollment, served on active duty in a theater of combat operation. It also includes those veterans who live within 40 miles of a medical facility and are required to travel by air, boat, or ferry to access a VA medical facility or who face geographical challenges in accessing that medical facility. In calculating the distance from a nearest VA medical facility, it is the Conferees' expectation that VA will use geodesic distance, or the shortest distance between two points. The Conferees do not intend the 40-mile eligibility criteria included in this section to preclude veterans who reside closer than 40-miles from a VA facility from accessing care through non-VA providers, particularly if the VA facility the veteran resides near provides limited services.

Should an appointment not be available for a veteran within the established wait time goals and the veteran chooses to be seen by non-VA entities, the veteran will be informed by electronic means, or by a letter if the veteran so chooses, as to the care or services they are authorized to receive.

The rates for contracts established under this section shall be no more than the rates paid to a provider of services under Medicare with the exception VA may negotiate a higher rate for care provided to veterans residing in highly rural areas.

A "Veterans Choice Card" will be issued to each enrolled veteran for presentation to health care providers for the delivery of authorized medical care and services. This card will contain identifying information as well as contact and relevant information for authorization and claims procedures. The Secretary will provide information to veterans about the availability of care and services through the use of this card. The Conferees do not intend for any delays that may occur in the production of the "Veterans Choice Card" to delay the implementation of the choice program.

This election to receive care through a health care provider also includes what would be considered an episode of care up to a period of 60 days. The Conferees recognize that chronic conditions or illnesses may require episodes of care that extend beyond the 60 day limit. In such cases, the Conferees expect the Secretary to authorize additional episodes of care sufficient to complete the needed treatment or in the case of treatment needed to maintain a quality of life during a terminal illness.

For those veterans receiving hospital care or medical services for non-service-connected conditions, the Department is secondarily responsible. The health care provider that furnishes care or services shall be responsible for seeking reimbursement from the health care plan contract under which the eligible veteran is covered. Eligible veterans will pay a copayment for the receipt of hospital care or medical services under this section only if such eligible veteran would be required to pay a copayment for the receipt of care and services at a VA medical facility. Nothing in this section amends health plans not administered by the Department, including with respect to the terms and conditions of such coverage, reimbursement, and cost-sharing.

Numerous reports are required to document program implementation, establishment and success in meeting goals, utilization of and satisfaction in care and services delivered under this section, and Department expenditures.

The Conferees expect VA will provide care and services under this section at the choice of an eligible veteran if the veteran experiences the time or distance delays described in this section. When coordinating care for eligible veterans through the Non-VA Care Coordination program, the Department should attempt to ensure when an appointment is authorized, the eligible veteran receives care within an appropriate time period, as defined by medical necessity as determined by the referring physician, or a mandatory time period established by the Secretary when the request for care is not initiated by a physician, that all medical fees are appropriately paid and health care records are returned to the Department within the prescribed time. The Conferees also expect that VA will utilize providers who have demonstrated success providing a variety of care, to veterans under an integrated model of care and a proven ability to partner with the Federal government.

Congress has authorized a new program to provide care and choice to veterans, the funds made available for this program through section 802(d)(1) are available only to carry out this new program.

Enhancement of collaboration between Department of Veterans Affairs and Indian Health Service.

Current Law

Subsection 1645(c) of title 25, U.S.C., requires VA and DOD to reimburse IHS, an Indian tribe, or a tribal organization for providing eligible beneficiaries with health care services. In 2010, VA and IHS signed an updated Memorandum of Understanding (hereinafter, “MOU”) in order to establish “mutual goals and objectives for ongoing collaboration between VA and IHS in support of their respective missions and to establish a common mission of serving our nation’s American Indian and Alaska Native Veteran.” This MOU set forth five goals, to be achieved through 12 areas of collaboration between VA and IHS. One of the areas of collaboration focused on increasing the availability of health care services through development of payment and reimbursement policies to support interagency care delivery.

As a result, in December 2012, VA and IHS signed a national reimbursement agreement to create a mechanism by which VA can reimburse IHS for health services provided to eligible veterans. This MOU only covers direct care services provided by IHS. In addition to providing direct care, IHS also contracts with Urban Indian Health Centers and Tribal Health Programs (hereinafter, “THP”) to provide additional points of care to eligible Native Americans. VA has worked with individual THPs to negotiate separate reimbursement agreements to care for veterans. While VA’s agreement with IHS only covers dual eligible veterans, the Department’s agreements with health providers

through the Alaska Native Tribal Health Consortium include coverage for all veterans. VA has not yet entered into reimbursement agreements with any Urban IHS Centers to treat veterans.

In April 2013 and June 2014, the Government Accountability Office (hereinafter, “GAO”) issued two reports on the VA-IHS MOU. GAO’s recommendations indicated that better definition of metrics and improved oversight and guidance would improve implementation of the MOU and its impact on access to care for veterans.

Senate Amendment

The Senate amendment would require VA, in consultation with IHS, to conduct more outreach to IHS tribal health programs to ensure they are aware of the opportunity to negotiate a reimbursement agreement.

It would require VA, in collaboration with IHS, to define metrics for implementing and overseeing existing partnership efforts under the current VA-IHS MOU.

Finally, it would require VA and IHS to jointly report to Congress, within 180 days of enactment, on the feasibility and advisability of entering into reimbursement agreements with Urban IHS Centers and including treatment of non-Native veterans as a reimbursable expense under existing reimbursement structures.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

Enhancement of collaboration between Department of Veterans Affairs and Native Hawaiian Health Care Systems.

Current Law

In October 2013, the VA Pacific Islands Health Care System (hereinafter, “VAPIHCS”) entered into an MOU with Papa Ola Lokahi, the statutorily designated statewide coordinating body for the five Native Hawaiian Health Care Systems, in order to improve communication, collaboration, and cooperation regarding health care for Native Hawaiian veterans. The purpose statement of the MOU notes that both parties, “hope to seek and develop greater means of achieving efficiency of care provided and to create future processes for VAPIHCS reimbursement for services provided to Native Hawaiian veterans referred to Papa Ola Lokahi by VAPIHCS.” VA estimated the average waiting time for a new patient requesting a primary care appointment at VAPIHCS was nearly 130 days, the highest in the nation. Due to the rural nature of the state, VAPIHCS has received funding above and beyond its Veterans Equitable Resource Allocation in Fiscal Year (hereinafter, “FY”) 2012 and FY

2013, in order to account for the costs of beneficiary travel for eligible veterans to receive services on other islands. These numbers were \$4.94 million and \$4.65 million, respectively.

Senate Amendment

The Senate amendment would require VA to enter into contracts or agreements with the Native Hawaiian health care systems for reimbursement of direct care services provided to eligible veterans.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

Reauthorization and modification of pilot program of enhanced contract care authority for health care needs of veterans.

Current Law

Section 403 of the Veterans' Mental Health and Other Care Improvements Act of 2008, Public Law 110-387, provided VA with authority to conduct a pilot program commonly known as Project ARCH (Access Received Closer to Home) in five Veterans Integrated Service Networks (hereinafter, "VISNs"). The pilot program was to be carried out in at least five VISNs, restricted by various geographic and demographic factors. Locations included: Northern Maine; Farmville, Virginia; Pratt, Kansas; Flagstaff, Arizona; and, Billings, Montana. The aim of the pilot was to provide health care access to eligible veterans closer to home through a non-Department health care provider.

Senate Amendment

The Senate amendment contained no similar provision.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Committee substitute would extend Project ARCH within specified VISNs for veterans in highly rural areas who are enrolled in VA health care for an additional 2 years. It would also require appointments to be scheduled within 5 days from the date the provider accepts a referral from VA and requires these veterans receive care within 30 days from the date the appointment was made.

Prompt Payment by the Department of Veterans Affairs.

Current Law

In general, the Prompt Payment Act, as amended, requires executive branch agencies, including VA, to pay late-payment penalties when the Department does not pay commercial payments on time.

In March 2014, GAO reported that billing officials at one non-VA provider experienced “lengthy delays” in the processing of their claims, which in some cases took years. Additionally, GAO testified at a House Committee on Veterans’ Affairs hearing on June 18, 2014, on claim processing discrepancies that delayed or denied payments for healthcare provided by non-VA providers.

According to GAO, these delays or denials create an environment where non-VA entities are hesitant to provide care due to fears they will not be paid for services provided. This hinders access to care for veterans who need non-VA services.

Senate Amendment

The Senate amendment would provide a Sense of Congress that VA comply with section 1315 of title 5, Code of Federal Regulations (hereinafter, “CFR”), (commonly known as the “prompt payment rule”) in paying for health care pursuant to contracts with non-VA providers.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision with an amendment that adds a GAO report on the timeliness of payments by VA for non-VA care and services. The Committee is concerned that the Department is not paying claims for services provided to veterans by non-Department providers in a timely manner. The Committee urges the Secretary to establish and implement a system for the processing and paying of those claims.

Transfer of authority for payments for hospital care, medical services, and other health care from non-Department of Veterans Affairs providers to the chief business office of the Veterans Health Administration.

Current Law

Under current law, section 1703 of title 38, U.S.C., VA may contract with non-Department facilities and providers to furnish hospital care or medical services to eligible veterans when VA is not capable of furnishing the care or services required or VA is not capable of providing economical care because of geographical inaccessibility. Further, VA has authority, under sections 1725 and 1728 of title 38, U.S.C., to reimburse for certain types of care, such as emergency treatment, at non-Department facilities.

The criteria for determining whether a veteran is eligible for non-VA care is established by each VISN or VA medical center. Committee oversight has determined that a decentralized eligibility determination process ensures eligibility is appropriate for each medical center's capacity and the needs of the veterans it serves. However, such decentralization has caused disparity in eligibility criteria throughout the VA health care system and in some cases has led to the determination of eligibility as subject to facility budget considerations rather than to the determination of what is best for the veteran.

The use of non-VA care has increased. In fact, non-VA care has been the subject of two recent reports by the GAO. Both reports highlighted vulnerabilities in VA's ability to manage and oversee utilization of and spending on non-VA care. In its May 2013 report, GAO noted VA's fee basis care spending had increased nearly \$1.5 billion from FY 2008 through FY 2012 and had witnessed an increase in utilization of 19% during that same time period.

Without central oversight of non-VA care, VA has limited ability to collect and analyze data that could help to improve the program's management.

Senate Amendment

The Senate amendment would require the Secretary to transfer the authority to pay for hospital care, medical services, and other health care through non-VA providers to the Chief Business Office from VA's VISNs and medical centers by October 1, 2014. It would also require the Chief Business Office to work with the Office of Clinical Operations and Management to ensure care and services are provided in a manner that is clinically appropriate and in the best interest of the veterans receiving such care and services.

Finally, in each FY after the date of enactment, the Secretary would be required to include in the Chief Business Office budget funds to pay for hospital care, medical services, and other health care provided through non-VA providers.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

TITLE II – HEALTH CARE ADMINISTRATIVE MATTERS

Independent assessment of the health care delivery systems and management processes of the Department of Veterans Affairs.

Current Law

VA operates the largest integrated health care system in the nation, comprised of 150 VA medical centers (hereinafter, “VAMCs”), 820 community-based outpatient clinics, 135 community-living centers, 300 Vet Centers, 140 domiciliary treatment programs, and 70 mobile Vet Centers. These sites of care are divided amongst 21 VISNs. The VA health care system is overseen by the Veterans Health Administration (hereinafter, “VHA”), which operates under the leadership of the VA Under Secretary for Health. VHA employs a staff of approximately 288,000 employees and oversees a medical care budget of approximately \$55 billion. In addition to providing direct health care services to eligible veterans, caregivers, and dependents, VHA also conducts education and training programs for health care professionals and medical residents; operates an extensive medical research program; and, serves as the contingency back-up to the Department of Defense during national emergencies.

VHA directive 2010-027, “VHA Outpatient Scheduling Processes and Procedures” (hereinafter, “the directive”), established on June 9, 2010, outlines the policy for implementing processes and procedures for scheduling outpatient appointments using the Veterans Health Information Systems and Technology Architecture (hereinafter, “VistA”). The directive also provides detail regarding how to ensure staff is competent in the scheduling process. This directive is set to expire on June 30, 2015.

VA’s Office of Inspector General (hereinafter, “VAOIG”), GAO and a recent VA audit have identified significant problems with VA’s ability to provide timely access to health care.

Senate Amendment

The Senate amendment would require VA to enter into a contract with an independent third party for a 180-day assessment of: the process for scheduling appointments at each VA medical facility; the staffing level at and productivity of each VA medical facility; the organization, processes, and tools used to support clinical documentation and coding of inpatient services; the purchasing, distribution, and use of pharmaceuticals; and the performance of the Department in paying amounts owed to third parties and collecting amounts owed to the Department. The independent third party conducting the assessment would be required to conduct a comprehensive review of the Department’s scheduling process and recommend any actions to be taken by the Department to improve its process for scheduling medical appointments.

The Senate amendment would also require VA to submit a report to the Committees on Veterans’ Affairs of the Senate and the House of Representatives (hereinafter, “the Committees”), no later than 90 days after the date on which the independent third party completes the assessment, on the results of such assessment.

House Amendment

The House amendment would require an independent assessment of hospital care and medical services furnished in VA medical facilities. The independent assessment would address: the current and projected demographics and unique needs of the patient population served by VA; the Department’s current and projected health care capabilities and resources; the authorities and mechanisms under which the Secretary may furnish hospital care and medical services at non-VA facilities; the appropriate system-wide access standard applicable to hospital care and medical services furnished by VA; the current organization, processes, and tools used to support clinical

staffing; VA's staffing levels and productivity standards; information technology strategies; and, VHA's business processes. Further, the independent assessment would include: an identification of improvement areas; recommendations for how to address such improvement areas; the business case associated with making such improvements; and findings and supporting analysis on how credible conclusions were established.

It would also require the Secretary to designate a program integrator if VA enters into contracts with more than one private sector entity to conduct the independent assessment. The program integrator would be required to be responsible for coordinating the outcomes of the assessments conducted by the private entities.

Finally, the House amendment would require VA to submit to the Committees a report, no later than 10 months after entering into a contract with a private entity, on the findings of the independent assessment and a subsequent report, no later than 120 days after the date of the submission of the first report, which would be required to include VA's action plan for fully implementing the recommendations of the independent assessment.

Conference Agreement

The Conference substitute adopts the House provision with amendments to broaden the breadth of the assessment to include: VA leadership; access to care; length of stay management; patient experience; workflow; care transitions; mechanisms by which VA ensures timely payments to non-VA care providers; pharmaceutical; supply and device purchasing; distribution and use; scheduling; and medical construction, maintenance and leasing.

The Conferees expect that the assessment will produce outcomes that identify improvement areas outlined both qualitatively and quantitatively, taking into consideration Department of Veterans Affairs' directives and industry benchmarks from outside the Federal Government. The assessment is also expected to provide supporting analysis on how credible conclusions were established. The business cases associated with and the recommendations for how to address these identified improvement areas relating to structure, accountability, process changes, technology, capabilities and usage, staff compliance, training effectiveness, and other relevant drivers of performance are expected to better inform the Commission on Care in its work.

Commission on Care.

Current Law

Precedent exists for establishing an independent commission in response to concerns regarding the care provided to our nation's servicemembers and veterans. In 2007, "the President's Commission on Care for America's Returning Wounded Warriors," known as the Dole-Shalala Commission, was established in response to reports of substandard conditions and mismanagement at Walter Reed Army Hospital. The subsequent report and recommendations issued by the Dole-Shalala Commission have been critical to improving the health care, benefits, and services available to our nation's veterans in recent years.

Another independent, high-level commission, the Capital Asset Realignment for Enhanced Services (“CARES”) Commission has been utilized in recent history to examine and recommend improvements for addressing a host of challenges facing VHA, such as how best to align VA’s health care system to deliver care to veterans.

Physical infrastructure plays a significant role in VA’s ability to provide high quality care to veterans. With more than 2 million new veterans enrolling into the VA health care system since 2009, and veterans experiencing extended wait times for appointments, it is essential that VA facility leasing programs and maintenance projects are completed on time and within budget.

Senate Amendment

The Senate amendment would establish a Commission on Access to Care to examine the access of veterans to health care and strategically examine how best to organize VHA, locate health care resources, and deliver health care to veterans. The Commission would be required to report initial findings and recommendations within 90 days of its first meeting, and would be required to provide a final report within 180 days of such meeting.

The Senate amendment would also establish an Independent Commission on Department of Veterans Affairs Construction Projects to review current construction and maintenance projects and the medical facility leasing program in order to identify any issues the Department may be experiencing as it carries out these projects. The Commission would be required to report to the Secretary and Congress not later than 120 days after enactment any recommendations for improving how VA carries out its construction and maintenance projects. Following submission of the Commission’s report, the Secretary would have 60 days to submit to Congress a report on the feasibility and advisability of implementing the recommendations of the Commission, including a timeline for the implementation of such recommendations.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision on the Commission on Care with an amendment to include a representative with familiarity with medical facility construction and leasing projects. This amendment would allow the Commission on Care to examine how VA’s physical infrastructure impacts VA’s ability to provide high quality care to veterans and eliminate the need for a separate Independent Commission on Department of Veterans Affairs Construction Projects. Further, the Conference substitute increases the number of voting members to 15, eliminates non-voting members, and allows for appointment by the Speaker and Minority Leader of the House of Representatives and Majority and Minority Leaders of the Senate. It is the expectation of the Conferees that the membership of the Commission on Care will represent and reflect a bipartisan, cross-section of VHA users.

The Commission on Care may also consider looking at the relationship and communication structure between the VHA and the Veterans Benefits Administration. The Conferees are concerned the two administrations do not communicate and lack synergy to ensure that veterans' benefits and services are rendered in a timely, safe, and veteran focused manner.

Technology task force on review of scheduling system and software of the Department of Veterans Affairs.

Current Law

VHA presently relies on an outpatient scheduling system that is more than 25 years-old. In October 2001, due to an aging system with various limitations that hindered its effectiveness, VHA launched a scheduling replacement initiative. This process was wrought with setbacks, including failed information technology (hereinafter, "IT") management and acquisition practices. After expending \$127 million on that effort, VA was only able to obtain defective software that could not be fixed and did not achieve the intended goal. Further, reports by GAO and VAOIG have repeatedly highlighted challenges with the use of the Electronic Wait List (hereinafter, "EWL"), an inability to connect with the consult management system, and other change management challenges regarding training for medical appointment schedulers.

Utilizing the America Competes Reauthorization Act of 2011, VA started the 21st Century Medical Scheduling contest in order to encourage commercial vendors to develop solutions VA can use and to mitigate risks VA identified in previous attempts to replace the existing Medical Scheduling Package. The contest ended on September 30, 2013, and three winners were identified and awarded slightly over \$3 million for their efforts. VA is currently pursuing modernization of VistA; thus, there has been renewed focus within the Department on how to improve its functionality and user experiences across the board. VA recently held Industry Days and one-on-one demonstrations with potential vendors in order to choose an off-the-shelf product as part of a long-term scheduling package replacement strategy.

Senate Amendment

The Senate amendment would require VA to review, through the use of a technology task force, the needs of the Department with respect to the scheduling system and scheduling software. The task force would be required to issue a report to propose specific actions that VA can take to improve its scheduling software and determine whether an existing off-the-shelf system would meet the Department's needs within 45 days of enactment. VA would be required to publish the report in the Federal Register and on a publicly accessible website. VA would also be required to implement any feasible, advisable, and cost-effective recommendations set forth in the report within one year of its receipt.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision. The Conferees expect VA to utilize the Northern Virginia Technology Task Force to implement this section. The Task Force previously provided a pro-bono review for Arlington National Cemetery.

Improvement of access of veterans to mobile vet centers and mobile medical centers of the Department of Veterans Affairs.

Current Law

In May 2014, VHA's Office of Rural Health published a fact sheet reporting that, of the Nation's 22 million veterans, 5.3 million live in rural areas. Currently, there are 70 mobile vet centers operating around the country providing readjustment counseling and information resources to veterans in rural areas. Mobile vet centers in some areas also provide limited telemedicine services. VA, however, has not issued any standard procedures for the operation of mobile vet centers. Currently, regional managers determine how a mobile vet center is employed and utilized. As a result, mobile vet centers are vulnerable to inconsistencies.

In addition to mobile vet centers, VA uses mobile medical units (hereinafter, "MMUs") to increase access to care for rural veterans. As of March 2013, VA operated eight MMUs. In May 2014, VAOIG issued an audit of VA MMUs, which found that VA lacked critical information regarding the number, locations, purpose, patient workloads, operation costs, and operations of MMUs. VAOIG recommended that VA improve oversight of MMUs.

Senate Amendment

The Senate amendment would require VA to improve access to health care services, including telemedicine, by standardizing requirements for the operation of mobile vet centers. It would also require the Secretary to submit an annual report to Congress on the use of mobile vet centers as well as recommended improvements for access to telemedicine and health care via mobile vet centers.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision with an amendment to require VA to use MMUs as well as mobile vet centers to improve access to care for veterans, particularly those residing in rural areas.

Improved performance metrics for health care provided by Department of Veterans Affairs.

Current Law

Under current law, chapter 45, chapter 53, and other provisions of title 5, U.S.C., VA has the authority to provide awards to certain employees. For example, chapter 45 of title 5, U.S.C., provides VA with authority to grant cash awards to employees in recognition of performance.

Senate Amendment

The Senate amendment would require the Secretary to ensure that scheduling and wait-time metrics are not used as factors in determining the performance of certain employees for purposes of determining whether to pay performance awards to such employees. It would also require the Secretary to remove from the performance goals of any VISN or VA medical center employee, any performance goal that might disincentivize the payment of Department amounts to provide health care through non-VA providers.

The Senate amendment would also require the Secretary to modify the performance plans of the directors of VISNs and VA medical centers to ensure that such plans are based on the quality of care received by veterans at VA medical facilities, including reviews and recommendations concerning such facilities by the VAOIG and the Joint Commission.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

Improved transparency concerning health care provided by Department of Veterans Affairs.

Current Law

VHA operates the largest integrated health care system in the nation, providing care to nearly 6.5 million veterans, survivors, and their dependents every year. According to GAO, between FY 2005 and FY 2012, the number of outpatient medical appointments at VA has increased by roughly 45 percent. VA's own data on wait times for FY 2010 suggested it was seeing virtually all its primary and specialty care appointments within the 30 days of desired date requirement that had been established in 1995. As a result, in FY 2011, VHA shortened its goal of scheduling both primary and specialty care appointments to 14 days. While VA did not publicly publish data related to wait times, it did attempt to encourage accountability by incorporating the wait-time goal metric into the performance contracts of VISN and VAMC directors.

Senate Amendment

The Senate amendment would require the Secretary to publish wait-times for scheduling an appointment at VA facilities in the Federal Register and on a public website of each medical center within 90 days of the date of enactment of this Act. It would also require VA to publish, on the

Internet, current wait times for appointments in primary and specialty care at each VA medical center.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

Information for veterans on the credentials of Department of Veterans Affairs physicians.

Current Law

In FY 2013, 18,342 physicians; 991 dentists; 50,862 registered nurses; 23,729 licensed practical nurses, licensed vocational nurses, and nurse assistants; and 12,102 non-physician providers delivered care to nearly 6.5 million veterans, survivors, and their dependents. VA makes information regarding its health care providers available to its patients and the public through the “Our Doctors” section on the website for each of VA’s medical centers. Congressional oversight has determined that these websites contain limited information regarding the credentials for VA’s physicians.

Senate Amendment

The Senate amendment would require VA to improve the information available to veterans regarding residency training in the “Our Doctors” database located on each VA medical facility’s website. It would also require VA to provide information regarding a physician’s credentials to a veteran, or an individual acting on behalf of a veteran, prior to undergoing a surgical procedure by or through VA.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

Information in annual budget of the President on hospital care and medical services furnished through expanded use of contracts for such care.

Current Law

Under current law, section 1105 of title 31, U.S.C., the President submits a budget for the U.S. Government that includes a message, summary and supporting information.

Senate Amendment

The Senate amendment would require the Secretary to include information in the Department's budget submission regarding hospital care and medical services furnished through expanded use of contracts.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

Prohibition on falsification of data concerning wait times and quality measures at Department of Veterans Affairs.

Current Law

In May 2014, concerns about VA's scheduling practices, including excessive wait times, were identified in the VAOIG's interim report regarding the alleged patient deaths at the Phoenix Health Care System. The results indicated that 1,700 veterans were waiting for a primary care appointment but had not been placed on the EWL. In its report, the VAOIG noted that, as a direct result of not properly placing veterans on the EWL, the leadership at the Phoenix Health Care System had radically understated the amount of time new patients waited for their primary care appointments.

Senate Amendment

The Senate amendment would require VA to establish disciplinary procedures within 60 days of enactment of this Act for employees who knowingly submit false data pertaining to wait times and quality measures or knowingly require another employee of the Department to submit false data concerning such wait times or quality measures to another employee of the Department.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

TITLE III – HEALTH CARE STAFFING, RECRUITMENT, AND TRAINING MATTERS

Treatment of staffing shortage and biennial report on staffing of medical facilities of the Department of Veterans Affairs.

Current Law

Subsection 3304(a) of title 5, U.S.C., authorizes federal agencies to appoint, without regard to certain hiring preferences and competitive service selection requirements, candidates directly to positions for which a severe shortage of candidates or a critical hiring need has been identified.

VA's own nation-wide access audit determined that VA faces staffing challenges and needs additional health care professionals, such as primary care physicians, specialty care physicians, and administrative and support staff, to improve access to high quality health care for veterans. These reviews and Congressional oversight have identified the federal government's long hiring process as a barrier to recruiting qualified health care professionals to the VA health care system.

Furthermore, GAO and VAOIG have reported that inadequate staffing and gaps in hiring health care professionals at VA medical facilities throughout the country have adverse effects on patient care. These adverse effects include increased wait times and delays in scheduling appointments. Current law, however, is silent on requiring periodic assessments of VA's staffing and succession planning process.

Senate Amendment

The Senate amendment would require VAOIG to annually identify the five occupations of health care providers with the largest staffing shortages and would authorize VA to utilize direct appointment authority to fill such openings in an expedited manner. It would also give priority for VA's Health Professionals Educational Assistance Program to individuals pursuing a medical degree with the intent to specialize in occupations identified by the VAOIG.

It would also require VA to submit a report to the Committees, not later than 180 days after the date of enactment of and not later than December 31, biennially, thereafter through 2024, on staffing at each VA medical facility. Such report would be required to include: the results of a system-wide assessment of all VA medical facilities, including a plan for addressing any issues identified in such assessment; a list of the current wait times, workload levels, and staffing models for certain clinics; the results of the most current VAOIG findings regarding staffing shortages and VA's plan to use direct appointment authority to fill such staffing shortages; an analysis of succession planning at VA medical facilities; and the number of VA health care providers who have been removed, retired, or left their positions for other reasons.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision with an amendment that would require the Secretary to establish medical residency programs or ensure sufficient numbers of medical residency positions at facilities with existing programs in areas experiencing a shortage of physicians or

located in a community that is designated as a health professional shortage area. It would also increase the number of graduate medical education residency positions by up to 1,500 over five-years with a priority for primary care, mental health, and other specialties as VA determines appropriate. Finally, it would require an annual report to Congress.

The Conference encourages VA to explore options of partnering with private sector and affiliate hospitals who could potentially provide vacant space to VA for care.

Extension and modification of certain programs within the Department of Veterans Affairs Health Professionals Educational Assistance Program.

Current Law

Section 7601, et seq. of title 38, U.S.C., provides VA with authority to carry out the VA Health Professionals Education Assistance Program (hereinafter, “HPEAP”) to provide scholarships, tuition assistance, debt reduction assistance, and other educational programs to VA health care professionals. HPEAP serves as a recruitment and retention tool for the Department. For example, the Education Debt Reduction Program (hereinafter, “EDRP”), which provides educational assistance to VHA employees in an effort to maintain staffing levels, has assisted 10,055 individuals from FY 2002 through FY 2013. However, VA has acknowledged EDRP has experienced lower than expected utilization rates because it requires participants to pay student loan expenses upfront which are reimbursed later by the Department. As a result, the number of participants defaulting on their loans and subsequently being removed from the program is higher than anticipated.

Senate Amendment

The Senate amendment contained no similar provision.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute would extend VA’s authority to operate HPEAP through December 31, 2019. It would also increase the cap on debt reduction payments to an individual participant from \$60,000 to \$120,000. These amendments would bring VA’s Health Professionals Educational Assistance Program in line with other similar federal programs and ensure VA has the authority to provide appropriate incentives to attract health care professionals.

Clinic management training for employees at medical facilities of the Department of Veterans Affairs.

Current Law

Timely access to health care requires efficient clinic management. As early as 2005, GAO noted that VHA lacked standardized training programs for scheduling. Further, VHA has no leadership or management training in access to care management. GAO, VAOIG and VA's Office of Medical Inspector have identified standardization of clinic management training regarding availability of providers' schedules as a VA management challenge. Specific VA medical centers that have experienced difficulty with standardized scheduling processes are the VA San Diego Health Care System, the Cheyenne, Wyoming, VA Medical Center, and the Phoenix VA Healthcare System. Moreover, the tone of VHA's directive entitled *Outpatient Scheduling Processes and Procedures* is written in a manner that offers guidance rather than specific policy, seemingly allowing for discretion regarding its implementation.

Senate Amendment

The Senate amendment would require VA to implement a clinic management training program to provide in-person, standardized education on health care management to all VA managers and health care providers. Such training program would be required to include training on: managing the schedules of VA health care providers; the appropriate number of appointments that a VA health care provider should conduct on a daily basis; managing appointments; the proper use of VA's appointment scheduling system; optimizing the use of technology; and the proper use of physical plant space at VA medical facilities.

It would also require VA to carry out the clinic management training program for two years and would require VA to update training materials on an ongoing basis and provide such training materials to relevant officials, as appropriate. Updating of training materials will need to account for new IT such as a new scheduling system or electronic access to care dash board.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

TITLE IV – HEALTH CARE RELATED TO SEXUAL TRAUMA

Expansion of eligibility for sexual trauma counseling and treatment to veterans on inactive duty training.

Current Law

Section 1720D of title 38, U.S.C., requires VA to provide counseling and appropriate care and services to veterans to overcome psychological trauma, which in the judgment of a VA mental health professional, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the veteran was serving on active duty or active duty for training (otherwise known as military sexual trauma) (hereinafter, "MST"). Veterans who experienced MST

while serving on active duty or active duty for training are included under this authority. However, veterans who experienced MST while on inactive duty for training – for example, those who were assaulted during weekend drill training for the National Guard and Reserve - are not included.

Senate Amendment

The Senate amendment would amend section 1720D of title 38, U.S.C., to provide VA with the authority to provide counseling, care and services to veterans, and certain other servicemembers who may not have veteran status, who experienced sexual trauma while serving on inactive duty for training.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

Provision of counseling and treatment for sexual trauma by the Department of Veterans Affairs to members of the Armed Forces.

Current Law

Under current law, section 1720D of title 38, U.S.C., VA has the authority to provide counseling, care and services to veterans who experienced sexual trauma while serving on active duty or active duty for training.

Senate Amendment

The Senate amendment would expand eligibility for care and services for MST at a VA facility to active duty servicemembers. Active duty servicemembers would not be required to initially be seen by DOD and receive a referral before seeking treatment at a VA facility for MST. It would take effect on the date that is one year after the date of enactment.

House Amendment

The House amendment contains no similar provision.

Conference Agreement

The Conference substitute adopts the Senate position.

Reports on military sexual trauma.

Current Law

Section 1720D of title 38, U.S.C., states that “each year, the Secretary shall submit to Congress an annual report on the counseling, care, and services provided to veterans pursuant to this section.” However, there is no language requiring an assessment.

Senate Amendment

The Senate amendment would require the VA-DOD Joint Executive Committee to conduct an annual assessment for the next five years of the processes and procedures regarding the transition and continuum of care from the DOD to VA for individuals who have experienced MST. The assessment would also include the processes and collaboration by the agencies to assist individuals filing a claim for MST related disability. Additionally, VA would be required to submit a report to Congress no later than 630 days from the date of enactment of the Act on the treatment and services available for male veterans who experience MST compared to such treatment and services available to female veterans. It would take effect on the date that is 270 days after the date of enactment of the Act.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

TITLE V – OTHER HEALTH CARE MATTERS

Extension of pilot program on assisted living services for veterans with traumatic brain injury.

Current Law

Section 1705 of Public Law 110-181, the “National Defense Authorization Act for Fiscal Year 2008,” requires: (1) VA, in collaboration with the Defense and Veterans Brain Injury Center, to carry out a five-year pilot program to assess the effectiveness of providing assisted living services to veterans with traumatic brain injury (hereinafter, “TBI”) to enhance their rehabilitation, quality of life, and community integration; (2) at least one part of the pilot program to be carried out in a VISN that contains a VA polytrauma center; (3) special consideration to be given to veterans in rural areas; and, (4) VA to report to the Committees on the pilot program. To comply with this requirement, VA awarded a national contract to 20 contractors at more than 150 sites of care across the U.S. However, statutory authority for this pilot program expires on September 30, 2014.

Senate Amendment

The Senate amendment contains no similar provision.

House Amendment

The House amendment contains no similar provision.

Conference Agreement

The Conference agreement extends the statutory authority for VA to operate the pilot program from September 30, 2014, to October 6, 2017.

TITLE VI – MAJOR MEDICAL FACILITY LEASES

Authorization of major medical facility leases.

Current Law

Under current law, section 8104 of title 38, U.S.C., Congressional authorization is required prior to entering into any VA major medical facility lease that has an average annual rent of \$1,000,000 or above.

Senate Amendment

The Senate amendment would authorize VA to enter into 26 major medical facility leases in 17 states and Puerto Rico.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision with an amendment to include a lease authorization for a VA community-based outpatient clinic in Tulsa, Oklahoma, in an amount not to exceed \$13.27 million. In enacting such leases, the Conferees would like the Secretary to consider any potential cost, energy and schedule savings that might be offered by standardized design elements and off-site construction methods, including prefabricated components and panelized structures.

Budgetary treatment of Department of Veterans Affairs major medical facilities leases.

Current Law

Section 8104 of title 38, U.S.C., requires authorization of any major medical facility construction project or lease. Subsections (a)(1)(A) and (a)(1)(B) of section 1341 of title 31, U.S.C., prohibit any government employee from entering into contracts, or making or authorizing expenditures and obligations that exceed the amount of appropriated funds for such expenditures.

Appendix B of the Office of Management and Budget's (hereinafter, "OMB") Circular A-11 (hereinafter, "Circular") describes the processes through which budgetary treatment of lease-

purchase and leases of capital assets will be consistent with scorekeeping rules originally promulgated in connection with the Budget Enforcement Act of 1990 and the Anti-Deficiency Act. According to the Circular, at the time an Agency enters into a binding commitment, the Agency must obligate sufficient budget authority to cover associated legal obligations to the government, consistent with the requirements of the Anti-Deficiency Act. For lease-purchases or capital leases, this consists of the net present value of the total estimated legal obligations over the entire life of the contract. For operating leases, this can consist of either an amount sufficient to cover the lease payments for the first year plus a sufficient amount to cover any costs associated with cancellation of the contract, if the contract includes a cancellation clause, or an amount sufficient to cover the annual lease payment, if the lease is funded through a self-insuring fund such as the General Services Administration's Federal Building Fund.

After receiving information about how VA has exercised the authority provided in prior VA major medical facilities leasing authorizations, the Congressional Budget Office (hereinafter, "CBO") concluded in 2012 that VA has been entering into binding obligations for the full period of the lease, without regard to the scorekeeping rules contained in the Circular.

Senate Amendment

The Senate amendment would require the funding prospectus of a proposed lease to include a detailed analysis of how the lease is expected to comply with OMB's Circular and the Anti-Deficiency Act. It also directs VA, at least 30 days before entering into a lease, to submit to the Committees: (1) notice of the intention to enter into, and a detailed summary of, such lease; (2) a description and analysis of any differences between the lease prospectus submitted and the proposed lease; and (3) a scoring analysis demonstrating that the proposed lease fully complies with OMB's Circular. VA must also report any material differences between the proposed lease and the lease entered, no later than 30 days after entering into a lease.

House Amendment

The House amendment contains no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

TITLE VII – OTHER VETERANS MATTERS

Expansion of Marine Gunnery Sergeant John David Fry Scholarship.

Current Law

Public Law 111-32, the "Supplemental Appropriations Act of 2009," amended the Post-9/11 GI Bill to establish the Marine Gunnery Sergeant John David Fry Scholarship for the children of servicemembers who died in the line of duty after September 10, 2001. Eligible children are entitled to 36 months of benefits at the 100 percent level and may use the benefit until their 33rd birthday.

Currently, surviving spouses of servicemembers who died in the line of duty are only eligible to receive survivors' and dependents' educational assistance (hereinafter, "Chapter 35"). Chapter 35 benefits provide a spouse up to \$1,003 per month as a full-time college student, which may require the spouse to find other sources of income or funding to offset the high cost of education. Additionally, recipients of Chapter 35 do not receive a separate living allowance.

Senate Amendment

The Senate amendment would expand the Marine Gunnery Sergeant John David Fry Scholarship to include surviving spouses of members of the Armed Forces who died or die in the line of duty after September 10, 2001. It would amend subsection (b)(9) of section 3311 of title 38, U.S.C., to expand the ability to receive the Marine Gunnery Sergeant John David Fry Scholarship to surviving spouses. It would limit the entitlement of the surviving spouse to the date that is 15 years after the date of the servicemember's death or the date the surviving spouse remarries, whichever is earlier. Further, a surviving spouse, who is entitled both under amended section 3311 and under Chapter 35, would be required to make an irrevocable election to receive educational assistance under either amended section 3311 or Chapter 35. Finally, this provision would make a necessary conforming amendment to subsection (b)(4) of section 3321 of title 38, U.S.C.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate position with an effective date of January 1, 2015.

Approval of courses of education provided by public institutions of higher learning for purposes of All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance conditional on in-State tuition rate for veterans.

Current Law

Section 3313 of title 38, U.S.C., authorizes VA to pay in-state tuition and fees for veterans attending a public educational institution using their Post-9/11 GI Bill educational benefits. However, a veteran may not always qualify for in-state tuition rates.

Several states currently assist all or certain veterans by recognizing them as in-state students for purposes of attending a public educational institution, regardless of length of residency in the state where the veteran is attending college. Yet, many states require transitioning veterans to meet stringent residency requirements before they can be considered in-state residents. Federal law is silent on this matter.

Recently-separated veterans may not be able to meet state residency requirements where they choose to attend school because they were stationed elsewhere during their military service, and once

enrolled, they may not be able to legally establish residency because of their status as full-time students. The federal educational assistance provided to veterans by VA was designed, in part, to help them develop the skills and background necessary to make a successful transition from military service to a civilian life and career.

Senate Amendment

The Senate amendment would amend section 3679 of title 38, U.S.C., by adding a new subsection (c) to require VA to disapprove courses of education provided by public institutions of higher learning that charge tuition and fees at more than the in-state resident rate for veterans within three years from discharge from a period of at least 90 days service in the military, irrespective of the veteran's current state of residence, if the veteran is living in the state in which the institution is located while pursuing that course of education. Pursuant to subsection (c), this provision would apply to veterans using the educational assistance programs administered by VA under chapters 30 and 33 of title 38, U.S.C., and to dependent beneficiaries using Post-9/11 GI Bill benefits during the three years after the veteran's discharge. If the veteran or dependent enrolls within three years after the veteran's discharge, the requirement to charge no more than the in-state tuition rate would apply for the duration the individual remains continuously enrolled at the institution.

Subsection (c)(4) would permit a public educational institution to require a covered individual to demonstrate an intent, by means other than satisfying a physical presence requirement, to eventually establish residency in that state or to meet requirements unrelated to residency in order to be eligible for the in-state tuition rate. This section would also provide VA discretion to waive the established requirements in a circumstance where it is deemed appropriate in regards to approval of a specific course of education. Any disapproval of courses pursuant to these new requirements would apply only with respect to benefits provided under chapters 30 and 33 of title 38. This provision would apply to programs of education that begin during academic terms after July 1, 2015.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

Extension of reduction in amount of pension furnished by Department of Veterans Affairs for certain veterans covered by Medicaid plans for services furnished by nursing facilities.

Current Law

Section 5503 of title 38, U.S.C., sets forth the criteria under which eligibility for income-based pension payments and aid and attendance allowances are affected by domiciliary or nursing home residence. In instances where a veteran, or surviving spouse, has neither a spouse nor a child, and is receiving Medicaid-covered nursing home care, the veteran or surviving spouse is eligible to receive no more than \$90 per month in VA pension or death pension payments. Under current law, this

authority shall expire on November 30, 2016. This authority has been extended several times, most recently pursuant to Public Law 112-260, the “Dignified Burial and Other Veterans' Benefits Improvement Act of 2012.”

Senate Amendment

The Senate amendment contains no similar provision.

House Amendment

The House amendment contains no similar provision.

Conference Agreement

The Committee substitute would amend section 5503(d)(7) to extend, through September 30, 2024, current eligibility restrictions for recipients of a VA pension who receive Medicaid-covered nursing home care. The VA pension program should not be used to subsidize other federal benefit programs. Further, pension recipients should have available funds for incidentals and personal expenses.

Extension of requirement for collection of fees for housing loans guaranteed by Secretary of Veterans Affairs.

Current Law

Under VA's home loan guaranty program, VA may guarantee a loan made to eligible servicemembers, veterans, reservists, and certain un-remarried surviving spouses for the purchase (or refinancing) of houses, condominiums, and manufactured homes. Section 3729(b)(2) of title 38, U.S.C., sets forth a loan fee table that lists funding fees, expressed as a percentage of the loan amount, for different types of loans.

Senate Amendment

The Senate amendment contains no similar provision.

House Amendment

The House amendment contains no similar provision.

Conference Agreement

The Committee substitute would extend VA's authority to collect certain funding fees through September 30, 2024, by amending the fee schedule set forth in section 3729(b)(2) of title 38, U.S.C.,.

Limitation on awards and bonuses paid to employees of Department of Veterans Affairs.

Current Law

Under current law, chapter 45, chapter 53, and other provisions of title 5, U.S.C., VA has the authority to provide awards to certain employees. For example, chapter 45 of title 5 provides VA with authority to grant cash awards to employees in recognition of performance.

Senate Amendment

The Senate amendment contained no similar provision.

House Amendment

The House amendment would, for each of FYs 2014 through 2016, prohibit the Secretary from paying awards or bonuses under chapters 45 or 53 of title 5, U.S.C., or any other awards or bonuses authorized under such title.

Conference Agreement

The Conference substitute adopts the House provision with an amendment that would, for each of FYs 2014 through 2024, cap the amount of awards or bonuses payable under chapter 45 or 53 of title 5, U.S.C., or any other awards or bonuses authorized under such title, at \$360 million. It is the Conferees' expectation that this cap not disproportionately impact lower-wage employees.

Extension of authority to use income information.

Current Law

Certain benefit programs administered by VA, including pension for wartime veterans and compensation for Individual Unemployability are available only to beneficiaries whose annual income is below a certain level. VA must have access to verifiable income information in order to ensure that those receiving benefits under its income-based programs are not earning a greater annual income than the law permits.

Section 6103(1)(7)(D) of title 26, U.S.C., authorizes the release of certain income information by the Internal Revenue Service (hereinafter, "IRS") or the Social Security Administration (hereinafter, "SSA") to VA for the purposes of verifying income of applicants for VA needs-based benefits. Section 5317(g) of title 38, U.S.C., provides VA with temporary authority to obtain and use this information. Under current law, this authority expires on September 30, 2016.

Senate Amendment

The Senate amendment contains no similar provision.

House Amendment

The House amendment contains no similar provision.

Conference Agreement

The Committee substitute would extend for eight years, until September 30, 2024, VA's authority to obtain information from the IRS or the SSA for income verification purposes for needs-based benefits.

Removal of senior executive of the Department of Veterans Affairs for performance or misconduct.

Current Law

Under current law, section 7543 of title 5, U.S.C., career appointees in the Senior Executive Service (hereinafter, "SES") may be removed from government service for misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function. Senior executives removed as a result of these conduct-related issues are entitled to certain rights, including at least 30 days advance written notice; a reasonable time but not less than seven days to reply; representation by an attorney or other representative; a written decision from the agency involved; and appeal rights to the Merit Systems Protection Board (hereinafter, "MSPB").

Under current law, section 3592 of title 5, U.S.C., career appointees in the SES may be removed from the SES and placed into a non-SES position for performance-related issues. This removal may occur at any time during a one-year probationary period or at any time for less than fully successful executive performance. Generally, senior executives removed from the SES and placed into a civil service position are entitled to an informal hearing before the MSPB.

Also under current law, section 3592(b) of title 5, U.S.C., there is a 120-day moratorium from removing a career appointee in the SES following the appointment of the head of the agency or the SES employee's immediate supervisor.

Senate Amendment

The Senate amendment would provide the Secretary with the authority to remove or demote any individual from the SES if the Secretary determines the performance of the individual warrants such removal and requires the Secretary to notify Congress within 30 days of removing or demoting a senior executive under this authority. The senior executive would be allowed an opportunity for an expedited review by the MSPB. Under such expedited appeal, the senior executive would have seven days to appeal a removal or demotion and the MSPB would be required to adjudicate the appeal within 21 days.

The MSPB would be required to establish and implement a process to conduct expedited reviews and submit to Congress a report on their established process within 30 days of enactment.

The Senate amendment would also provide authority for the Secretary to immediately remove senior executives notwithstanding the 120-day moratorium in current law.

House Amendment

The House amendment would provide the Secretary with the authority to remove or demote any individual from the SES if the Secretary determines the performance of the individual warrants such removal and requires the Secretary to notify Congress within 30 days of removing or demoting a senior executive under this authority.

Conference Agreement

The Conference substitute generally adopts the Senate provision with an amendment to change the level of review at the MSPB. The substitute requires that the expedited review by the MSPB be conducted by an Administrative Judge at the MSPB, and if the MSPB Administrative Judge does not conclude their review within 21 days then the removal or demotion is final. The substitute does not allow for any further appeal beyond the Administrative Judge, and does not allow for a second level review by the three-person board at the MSPB. The substitute also requires that if the senior executive is removed, and then appeals VA's decision, the senior executive is not entitled to any type of pay, bonus, or benefit while appealing the decision of removal. Furthermore, the substitute requires that if a senior executive is demoted, and then appeals VA's decision, the employee may only receive any type of pay, bonus, or benefit at the rate appropriate for the position they were demoted to, and only if the individual shows up for duty, while appealing the decision of demotion. The substitute requires that the MSPB submit to Congress a plan within 14 days of enactment of how the expedited review would be implemented. The substitute also adds language to include title 38 SES equivalents under this new authority and includes "misconduct" along with "poor performance" as a reason to remove or demote a senior executive.

TITLE VIII – OTHER MATTERS

Appropriation of amounts.

Current Law

Congress uses an appropriation to provide funding for discretionary spending programs of the Federal government.

Senate Amendment

The Senate amendment would authorize and appropriate for FYs 2014, 2015, and 2016, the emergency funds necessary to carry out this Act.

In addition, the Senate amendment would make available, at the end of FYs 2014 and 2015, unobligated balances in VA's medical care accounts (medical services, medical support and compliance, and medical facilities) for the hiring of additional health care professionals.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute authorizes and appropriates \$5 billion to increase veterans access to care through the hiring of physicians and other medical staff and by improving VA's physical infrastructure.

Veterans Choice Fund.

Current Law

There is no provision of law establishing a Veterans Choice Fund.

Senate Amendment

The Senate amendment contained no similar provision.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute establishes in the Treasury a fund to be known as the Veterans Choice Fund to carry out the expanded availability of hospital care and medical services for veterans created by section 101 of the Conference substitute. The Conference substitute also authorizes and appropriates \$10 billion for deposit in the Veterans Choice Fund.

Emergency designations.

Current Law

Congress may exempt the budgetary effects of a provision from certain enforcement procedures by designating it as an emergency requirement. An emergency designation causes the spending and revenue effects estimated to result from such bills as exempt for purposes of enforcing budget procedures.

Senate Amendment

The Senate amendment would designate this Act as an emergency requirement under the Statutory Pay-As-You-Go Act of 2010 and the Concurrent Resolution on the budget for FY 2010.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The Conference substitute adopts the Senate provision.

Jeff Miller
Doug Lamborn
David Roe
Bill Flores
Dan Benishek
Mike Coffman
Brad Wenstrup
Jackie Walorski
Michael Michaud
Corrine Brown
Mark Takano
Julia Brownley
Ann Kirkpatrick
Tim Walz

Managers on the Part of the House.

Bernard Sanders
John D. Rockefeller, IV
Patty Murray
Sherrod Brown
Jon Tester
Mark Begich
Richard Blumenthal
Mazie Hirono
Richard Burr
Johnny Isakson
Mike Johanns
John McCain
Tom Coburn
Marco Rubio

Managers on the Part of the Senate.

COMPLIANCE WITH RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE
REGARDING EARMARKS AND CONGRESSOINAL DIRECTED SPENDING ITEMS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives and Rule XLIV of the Standing Rules of the Senate, neither this Conference report nor the accompanying joint statement of Conferees contains any congressional earmarks, congressionally directed spending items, limited tax benefits, or limited tariff benefits, as defined in such rules.

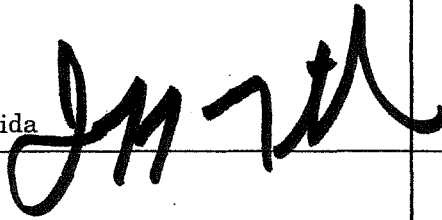
H.R. 3230

*Managers on the part of the
HOUSE*

*Managers on the part of the
SENATE*

For consideration of the House amendment and the Senate amendment, and modifications committed to conference:

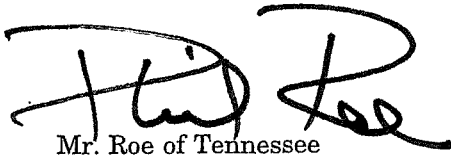
Mr. Miller of Florida



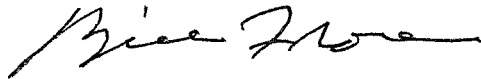
Mr. Lamborn



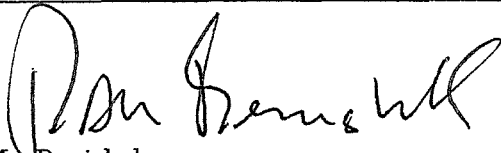
Mr. Roe of Tennessee



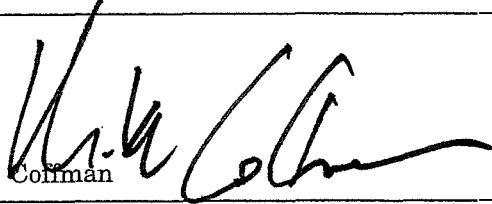
Mr. Flores




Mr. Benishek



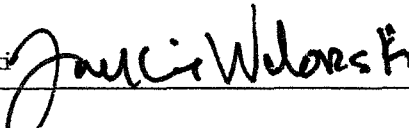

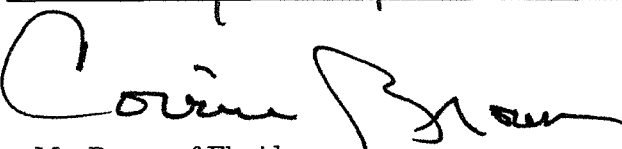

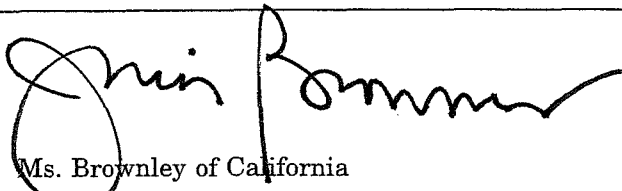
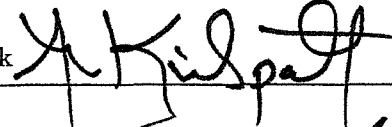
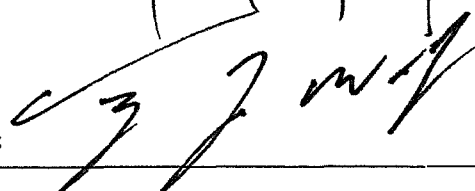
Mr. Colman








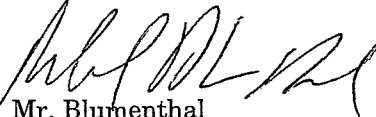

Mr. Wenstrup





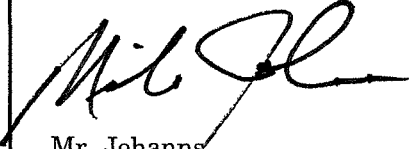
H.R. 3230—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
Mrs. Walorski 	
Mr. Michaud 	
 Ms. Brown of Florida	
 Mr. Takano	
 Ms. Brownley of California	
Mrs. Kirkpatrick 	
Mr. Walz 	

H.R. 3230—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	 Mr. Sanders
	 Mr. Rockefeller
	 Mrs. Murray
	 Mr. Brown
	 Mr. Fester
	 Mr. Begich
	 Mr. Blumenthal
	 Ms. Hiroo

H.R. 3230—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	 Mr. Burr
	 Mr. Isakson
	 Mr. Johanns
	